

# NOMINATIONS OF GRAFF, TUNHEIM, NELSON, JOYCE, AND HALL

Y 4. G 74/9: S. HRG. 103-877

Nominations of Graff, Tunheim, Nels...

## HEARING BEFORE THE COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

NOMINATIONS OF HENRY FRANKLIN GRAFF, JOHN R. TUNHEIM,  
ANNA KASTEN NELSON, WILLIAM L. JOYCE, AND KERMIT L. HALL,  
TO BE MEMBERS OF THE ASSASSINATION RECORDS REVIEW BOARD

FEBRUARY 1, 1994

Printed for the use of the Committee on Governmental Affairs



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# NOMINATIONS OF GRAFF, TUNHEIM, NELSON, JOYCE, AND HALL

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TUESDAY, FEBRUARY 1, 1994

U.S. SENATE,  
COMMITTEE ON GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:32 a.m. in room SD-562, Dirksen Senate Office Building, Hon. Joseph I. Lieberman presiding.

Present: Senator Lieberman.

Staff Present: Doris Clanton, Brian Dettelbach, Deborah Cohen, Ann Schnittker (Senator Glenn); Susanne Marshall (Senator Roth); John Nakahata, Diane Merriett (Senator Lieberman).

## OPENING STATEMENT OF SENATOR LIEBERMAN

Senator LIEBERMAN. Good morning. The hearing will come to order. My apologies to those who have been waiting. Those who wait also serve. I apologize because of the fact that we had a vote, but I appreciate your patience and we look forward to making this an expeditious hearing.

We are here today, as you know, to consider the nominations submitted by President Clinton to the JFK Assassination Records Review Board, which was created by the JFK Assassination Records Collection Act of 1992 which, may I say, was introduced by our friend and colleague who is here today, Senator David Boren of Oklahoma. It mandated that all relevant assassination documents in Government possession be sent to the National Archives and eventually be made available to the public.

Under the provisions of the Act, the Review Board is charged first with the responsibility of ensuring that agencies disclose assassination records and, second, with adjudicating agency requests to postpone public disclosure of specific assassination records. But the law sets strict limits on when disclosure may be postponed and it is very clear that the underlying intent of the law which falls to this Board to implement is a strong presumption in favor of full disclosure.

The importance of the Review Board's task ahead has not gone unnoticed. Newspaper articles which reported the August 23, 1993, public disclosure of documents at the National Archives noted that the Review Board needed to tackle several basic but controversial questions, such as what constitutes an assassination record. While Government agencies in possession of documents relating to the Kennedy assassination are to be commended for their efforts in reviewing, organizing and transmitting records to the National Ar-

chives, they need to know how broadly to cast their nets. The nominees before us have a big challenge and a lot of work ahead of them as members of this Review Board panel and I welcome them here this morning.

At this point, I would be delighted to recognize my two colleagues who have taken the time to be here both to speak and particularly to introduce. In a really startling break from the normal seniority tradition of this chamber, Senator Boren, in a typical demonstration of his graciousness, has, by the motion of his hand, urged me to recognize Senator Paul Wellstone of Minnesota first, and we welcome our colleague and thank him for being here.

### **TESTIMONY OF HON. PAUL WELLSTONE, U.S. SENATOR FROM THE STATE OF MINNESOTA**

Senator WELLSTONE. Thank you, Mr. Chairman. I think that we are at the danger point when you have two former college professors here. Both of us might go on for a while. I thank Senator Boren for his graciousness.

Mr. Chairman, I am really—you know, we always say “really honored.” I don’t know if that is quite the way I want to say it. I am so pleased to introduce Jack Tunheim, who is the chief deputy attorney general from Minnesota.

Mr. Chairman, I think you have met Jack in the past, and I think that this commission—and I would just say to the Senator from Oklahoma, I would congratulate him on his legislation and I am glad to see this finally coming to fruition. You have some excellent nominees. I think all of them will do a superb job.

I will spend really no time talking about Jack’s qualifications and his accomplishments as a lawyer. They are immense, and he is held in the highest regard in the legal community. As I understand it, there will be one lawyer on this commission and Jack will be that lawyer.

More importantly, the one thing about Jack Tunheim which stands out in Minnesota, and I think this is a perfect marriage with the mandate of this commission, is people never question his integrity. So as the commission has to make these difficult decisions—it is a daunting task before this commission—I think it is very, very important that each and every individual on this commission has the kind of quality that Jack has, which is he is a person of immense integrity. Combine that with his brilliance as a lawyer and his commitment to good public policy and we have really chose just a tremendous person to do this work.

So I thank you for this opportunity to introduce Jack. It is a real honor as a U.S. Senator from Minnesota to do so.

Senator LIEBERMAN. Thank you very much, Senator Wellstone. I did have the opportunity to meet Attorney Tunheim when I was attorney general of the State of Connecticut and I can, from those meetings, echo all those positive words that you have spoken. Thank you for taking the time to be here.

Now, our friend and colleague, Senator David Boren.



## TESTIMONY OF HON. DAVID BOREN, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator BOREN. Thank you very much, Mr. Chairman. I am privileged to introduce another person who has ties to Minnesota, at least to the University of Minnesota, where he received his Ph.D. It is a real honor and a privilege for me to be able to introduce to you Kermit L. Hall, one of the President's nominees for the Assassination Records Review Board. Dean Hall is a distinguished scholar and is eminently qualified to serve on this Board.

As you have indicated, when I served as Chairman of the Senate Select Committee on Intelligence, I became acutely aware of the need to clear the air on the events surrounding the death of President John Kennedy. While I had no information that would have led me to draw any conclusions, I did believe, and do believe strongly that Americans have a right to know that even the most secret programs of our Government will always be carried out and conducted in accordance with basic American values.

I am pleased that the Board soon will be able to carry out its responsibilities and enable our Nation to begin this healing process. I might say it is a continuation of a process begun by Senator Pell and myself in other legislation in which we urged and provided a mechanism for the declassification of documents held by our intelligence agencies that were needed by historians in order to accurately reflect the course of events in important periods in American history.

I believe very, very strongly that we have an obligation to the accuracy of the historical record to make these documents public. I think the knowledge that secret information, once it is no longer sensitive in the sense of bearing on events of the day, will some day be made public and some day be made a part of the historic record is also an important check and it is an important avenue of accountability for those that are presently conducting intelligence operations. So I have felt strongly for a long time that this kind of information should ultimately be in the historic record.

Kermit L. Hall serves as dean of the College of Arts and Science and professor of Law and History at the University of Tulsa. As I mentioned, he holds a Ph.D. from the University of Minnesota and a law degree from the Yale Law School, which the Chairman would recognize would make him exceptionally well qualified for this post.

Senator LIEBERMAN. Absolutely. The confirmation is automatic.

Senator BOREN. Dean Hall was a Fulbright Scholar in Finland and a visiting scholar at the American Bar Foundation. He wrote "The Oxford Companion to the Supreme Court," which received the American Library Association's award for outstanding reference work of 1992. It won the Texas Bar Association award for the best on the Supreme Court in 1992 and the American Bar Association's Gavel Award for 1993.

He is currently completing a case history of *New York Times v. Sullivan* under the title "Heed Their Rising Voices," and is supervising the preparation of "The Oxford Companion to American Law," to be published by Oxford University Press in 1996. He has authored more than 60 scholarly articles and essays in law reviews, political science and history journals, as well as being the author of major books.

He serves on the editorial boards of the Law and Society Review, the Journal of Southern Legal History, and the Journal of Supreme Court History. Dean Hall is also the associate editor of the American Journal of Legal History; editor of "Bicentennial Essays on the Bill of Rights," a monograph series published by the Oxford University Press; and coeditor with David O'Brien of "Constitutionalism and Democracy," a monograph series published by the University Press, University of Virginia; and coeditor of "Southern Legal History," a monograph series published by the University of Georgia Press.

He is currently a member of the board of directors of the Oklahoma School of Science and Mathematics, the Tulsa Philharmonic, the ERIC Clearinghouse for Social Studies Education, and the Board of Advisors of the American Bar Association's Commission on College and University Legal Studies. He chairs the Organization of American Historians' Committee on Access to Legal Lawyer's Papers.

So I think you can see, Mr. Chairman, that he is indeed a distinguished scholar, that his scholarship is directly relevant to the duties of this particular Board. I might say that, in addition to being known as a scholar, he is known as a person who is dedicated to individual rights and to constitutional rights. He is also a person of very good judgment.

The longer I serve in public life, the more I recognize that, in addition to intelligence, judgment is required. He is a person of sound judgment. He is very much respected by his colleagues on the faculty, where he provides leadership, where he must make judgments in terms of the use of scarce financial resources, for example, and be fair to all elements of the university and weigh those academic subjects that are most important and most relevant to the university's mission. So he is a person of good judgment, I think extremely well qualified to strike the balance that will be required of members of the commission in deciding on the release of very important documents related to the Kennedy assassination. So it is a real privilege, Mr. Chairman, for me to present him to you.

Let me just say in passing, as one of the authors of the legislation, I am elated by the quality of nominees that the President has sent forward for membership on this Board. They are a truly distinguished group and I know that they will carry out the mandate of the law in the spirit in which it was intended.

Senator LIEBERMAN. Thank you very much, Senator Boren, for taking the time to be here and for introducing us specifically to Dean Hall, who, I agree, is superbly qualified, and for your leadership all along here and your thoughtful comments this morning. I was struck by what you said about disclosure and it is so true. We use disclosure in many of our laws understanding that you can never be everywhere public officials are, to make sure that their behavior is what you would want it to be, so you count on disclosure—I think of campaign finance disclosure, financial interest disclosure—to serve as an incentive for good behavior and a deterrent to bad behavior.

But it is also true that hopefully, if there is the understanding that there will be later disclosure, at least a public official will be

mindful of, if not the judgment of his constituents in the short run, the judgment of history in the long run. It is a very powerful point.

Senator BOREN. I thank the Chair. This is happening in many areas now; for example, what has been done in terms of the making public of records in terms of information that we had available about prisoners of war at the end of the Vietnam war.

Senator LIEBERMAN. Right.

Senator BOREN. Those in the intelligence community who were custodians in those records and who helped prepare those pieces of intelligence analysis are now, most of them, still in their own lifetimes seeing their work judged, not instantaneously and not in a contemporary fashion, but they are still alive to see their work judged. I think that has a very healthy effect on all of those who work in programs that are, of necessity, temporarily classified to know that ultimately history will judge the values represented by their work, as well as the accuracy of their work.

Senator LIEBERMAN. Very well said. Thank you very much.

Senator BOREN. Thank you very much.

Senator LIEBERMAN. Let me now call the nominees to the witness table: William Joyce, associate librarian for rare books and special collections at the Princeton University Library; John Tunheim, chief deputy attorney general, office of the attorney general, State of Minnesota; Anna Nelson, adjunct professor of history at American University; Kermit Hall, dean of the Henry Kendall College of Arts and Sciences and professor of law and history at the University of Tulsa; and Henry Graff, former professor of history at Columbia University and senior fellow at the Freedom Forum Media Studies Center in New York. I welcome each of you.

The Committee rules require that an inquiry be conducted in each nominee's experience, qualifications and suitability to serve in the position for which the President has nominated that individual. In this regard, the Committee has received from the nominees a financial statement and detailed information on educational, employment and professional accomplishments. The nominees have also responded in writing to a number of prehearing questions. Copies of the biographical information and prehearing questions and responses will be placed in the record as part of this hearing, and the financial statements will be available for public inspection at the Committee office.

Finally, Senators Glenn and Roth, the Committee Chair and Ranking Minority Member, have reviewed the FBI background investigation report on each of the nominees.

Committee rules require that nominees be under oath while testifying on all matters relating to their suitability for office, including policies and programs which they will pursue while in their positions. So if each of you would please stand and raise your right hands, I would administer the oath.

Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. GRAFF. I do.

Mr. HALL. I do.

Mr. JOYCE. I do.

Ms. NELSON. I do.

Mr. TUNHEIM. I do.

Senator LIEBERMAN. Thank you very much, and please be seated. I wonder if any of you have a statement that he or she would like to make at this time. Yes, Mr. Graff.

**TESTIMONY OF HENRY FRANKLIN GRAFF, TO BE A MEMBER OF THE ASSASSINATION RECORDS REVIEW BOARD**

Mr. GRAFF. I would like to make a statement, Senator.

Senator LIEBERMAN. Go right ahead.

Mr. GRAFF. It is brief, and I thank the Committee for the opportunity to say these few words on this signal occasion.

First, I express my abiding appreciation to the President of the United States for the honor of this important and prestigious nomination to the Assassination Records Review Board, an agency unique in the Nation's history. If I am confirmed, I aim to help conduct the work of the Board with unquestionable distinction, bearing always in mind the clearly expressed wishes of Congress that the Board perform its duties with thoroughness and dispatch.

Americans, no less than other peoples, live not only by ideals and myths, but also in the reflected light of their heroes and heroines. For millions of our citizens, President John F. Kennedy filled the bill as hero, and his untimely death became a turning point for our country in the history of this troubled century.

The circumstances of his assassination have, for 30 years, been a subject for almost constant review and fresh speculation, sometimes even in immoderate tones. It is not the burden of the Assassination Records Review Board to bring an end to the discussion of this transforming political event. Rather, its assignment is to define and then assemble from a myriad of sources as many as possible of the documents that, when screened appropriately, can be released without delay to the interested public.

Ultimately, at stake in the Board's labors is not only historical truth, insofar as that is discoverable, but also the burnishing of the people's confidence in the trustworthiness of the Federal Government. Never more so than now in the aftermath of the cold war has the reputation of the American Government for integrity seemed a force for potential good in the world. An admirable performance by the Assassination Records Review Board, then, will go well beyond merely satisfying historical curiosity about the awful event in Dallas on November 22, 1963. It can deliver an incomparable message to people everywhere in the world who love freedom, and I feel inordinately privileged and proud, Senator, if I can contribute, however modestly, to such a lofty end.

Again, I thank you very much.

Senator LIEBERMAN. Thank you, Mr. Graff, very well said.

Does any other member wish to comment? Mr. Tunheim.

**TESTIMONY OF JOHN R. TUNHEIM, TO BE A MEMBER OF THE ASSASSINATION RECORDS REVIEW BOARD**

Mr. TUNHEIM. Mr. Chairman, thank you for the opportunity to appear today before the Governmental Affairs Committee as you consider my nomination and the nominations of my four colleagues to serve as members of the Assassination Records Review Board. I especially appreciate the expedited consideration given to our nominations by the Chairman.

I am grateful to the President for choosing us for these important positions and, if confirmed, I look forward to the very challenging task ahead of assuring the Congress, the President and the American people that all assassination records are secure within the National Archives and that all appropriate records are publicly disclosed.

The tragic assassination of President Kennedy gripped this Nation like no other event in the last half century. In the minds of many, too many questions remain unanswered. Prompt disclosure of the records of the assassination and its aftermath will be of immense value to the public, to scholars and to the Government.

I pledge to bring independent and objective judgment to this immense task, to use my skills as an advocate and my long experience in the public practice of law to help establish procedures that are both fair and true to the important purposes of this law.

As a Board, we must be guided by the principles underlying the law—independence, public confidence, efficiency, cost effectiveness, speed of disclosure, and enforceability. In the end, we will be judged not solely on the number of records disclosed, but on whether the public will truly be able to make its own judgment on the death of its President.

Like my colleagues, I would be happy to answer any questions. Thank you, Mr. Chairman.

Senator LIEBERMAN. Thank you, Mr. Tunheim. I appreciate your statement.

Does any other member wish to make a statement? Ms. Nelson.

#### **TESTIMONY OF ANNA KASTEN NELSON, TO BE A MEMBER OF THE ASSASSINATION RECORDS REVIEW BOARD**

Ms. NELSON. I would just like to add to my fellow nominees that it is a great honor for President Clinton to have nominated us, but it is also a great responsibility. I have worked extensively in public records in the past 15 years or so. I recognize that responsibility and, if confirmed, I certainly intend to carry it out to the very best of my ability.

Senator LIEBERMAN. Thank you very much.

Mr. Joyce.

#### **TESTIMONY OF WILLIAM L. JOYCE, TO BE A MEMBER OF THE ASSASSINATION RECORDS REVIEW BOARD**

Mr. JOYCE. I would simply like to add my voice to that of my Board nominee colleagues and say that it is a signal privilege to be here this morning, and that the work of the Board is no less daunting, having reviewed the legislation. I can assure you that I can speak for my colleagues as well as for myself in saying that we will undertake this with the greatest of energy, enthusiasm and direction and try to undertake to contribute to a broader understanding of the circumstances surrounding the death of President Kennedy.

Thank you.

Senator LIEBERMAN. Thank you.

Mr. Hall.

**TESTIMONY OF KERMIT L. HALL, TO BE A MEMBER OF THE  
ASSASSINATION RECORDS REVIEW BOARD**

Mr. HALL. I would simply concur and echo the comments of my colleagues, and look forward with some privilege to the task ahead and the promise of all energy and professional dedication necessary to the accomplishment of that task.

Senator LIEBERMAN. Thank you all. I appreciate the seriousness with which you undertake this assignment.

Before I proceed with questions, I wonder if any of you have any friends or family that you would like to introduce for the record at this time. Let us start with Mr. Graff.

Mr. GRAFF. Yes, Senator. I would like to introduce my beloved wife of almost 48 years, Edith Krantz Graff, whose own experience with documents was obtained trying to keep order out of the chaos of my papers and books at home, and she has been doing this for 50 years almost; and my daughter Ellen Toby Graff, who is a Phi Beta Kappa alumna of Barnard College, a graduate of the Columbia Law School, and a practicing attorney as a partner in the well-known New York law firm of Wien, Malkin and Bettex.

Thank you.

Senator LIEBERMAN. Thank you. It is nice to have you both here. I know that you are probably still at the age where daughters are a little bit discomfited when fathers brag with their credentials. I have crossed the bridge now and, as a father, I am proud to hear those statements. Congratulations to you.

Anyone else? Mr. Joyce.

Mr. JOYCE. Mr. Chairman, I would like to introduce my family: my wife, Carol, of 26 years, mother of our two children and a secondary school teacher in Princeton, New Jersey; our daughter, Susan, who is a recent graduate of Seton Hall Law School and is currently serving as a clerk in the U.S. Bankruptcy Court in Lower Manhattan; my sister, Rosemary, and her husband, David, who are teachers from northern New York.

Senator LIEBERMAN. Wonderful. Welcome. It is good to have you all here.

Anyone else?

[No response.]

Senator LIEBERMAN. I have three questions that I am obliged to ask you and then others that I will proceed with more voluntarily. The first three are as follows. Is there anything that any one of you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

[No response.]

Senator LIEBERMAN. I take it by the silence that the answer is no.

Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

[No response.]

Senator LIEBERMAN. Again, all the answers are in the negative.

Finally, if confirmed, you agree, without reservation, to appear and to testify before any duly constituted committee of the Congress?

[No response.]

Senator LIEBERMAN. Again, all the answers there are affirmative.

Just a few questions. As I indicated earlier, and Senator Boren certainly said forcefully, and I think you all know, the Act creates a strong presumption in favor of disclosure, with important but limited provisions for postponement of disclosure. I wonder whether you are comfortable with the priority and emphasis that the Act does place on disclosure.

Anybody is free to discourse a bit on it.

Ms. NELSON. I am certainly very comfortable with it, Senator Lieberman. I have given testimony before congressional committees for historians to have access to documents, and I agree with Professor Graff in the sense that access enriches our history, and with Senator Boren that it is really necessary for confidence in Government. Our biggest challenge is credibility and reestablishing credibility, and I, for one, am very, very comfortable with that statement in the legislation.

Senator LIEBERMAN. Yes, Mr. Tunheim.

Mr. TUNHEIM. Mr. Chairman, the strong statement in favor of public disclosure shines throughout the Act, and it is obvious to us that the primary purpose of the Congress in enacting this law is public disclosure. I speak certainly for myself that I feel strongly that that is the direction that this Board must go, keeping in mind that we need to enforce the provisions of the law fairly, but certainly leaning strongly in the direction of public disclosure.

Senator LIEBERMAN. Anyone else?

[No response.]

Senator LIEBERMAN. Thank you. I appreciate what you have said and, Ms. Nelson, I guess we are all saying this in different ways that beyond the highly detailed process that you are now entering into, there is a much larger question looming, which is credibility. This is the kind of work that you will be doing now that will for the most part be invisible, although not secret, but invisible to the public. Yet, the impact will cast either a larger either ray of sunlight or shadow across what people think of our Government more generally. So I appreciate that statement.

A somewhat more narrow question: Some have suggested the establishment of an advisory committee to receive and review public input to the Board that you have been nominated for. Others say that it is important that the Board hold frequent public hearings. To say the obvious, this is not a question with a right or wrong answer, but I am curious as to how you feel about the extent to which it may be important to receive and review information from what might be called the assassination research community regarding the possible existence of a potential assassination record or on the issue of what constitutes an assassination record.

Obviously, you come, the five of you, with extraordinary experience both broad and deep in this particular area. So I wonder whether you think it is important for you to open up and invite input.

Mr. Joyce.

Mr. JOYCE. It seems to me that it is essential, Mr. Chairman, for the Committee to conduct an active dialogue not only with the assassination records research community, but also with the Government agencies that are responsible for having created the records in the first place. For us to have a broad understanding of the various interests that are represented and how our work might contribute both to their interests and how theirs can, in turn, contribute to ours, I think is essential.

The question of an advisory committee is, in my mind, a very open one. However, I would note that there are potentially technical problems that we may turn to others with expertise for guidance and advice on occasion, and that any mechanism that can improve our understanding of opinions and thoughts that relate to our work is, of course, something that we have to undertake with enthusiasm.

Senator LIEBERMAN. Thank you.

Anyone else? Mr. Hall.

Mr. HALL. Mr. Chairman, I think it is essential in the especially beginning days of the operation of this Board that attention be given to the views of the historical research community and others about what constitutes an assassination record. Such a matter is really at the heart of what we are pursuing, and without attention to that matter, broadly conceived, as my colleague, Mr. Joyce indicates, we would, I think, undermine the credibility of our efforts from the outset.

Senator LIEBERMAN. Let me mention in response to what you both said, particularly Mr. Joyce, and for the record, Congress has given the Board you have been nominated to, significant powers to use to gather information. You have the power to administer oaths and to issue subpoenas and, in fact, to grant immunity to witnesses.

I guess I would say that I hope you will use those wisely, that you will not hesitate to use them if you feel you have to. What brought this to mind particularly, Mr. Joyce, was your reference to not only reaching out to the research community, but to other Government agencies. I hope that if you find that any agency is being uncooperative, you will notify this Committee, as in a sense your oversight body and, in fact, the source of the original legislation—let us know so that we will be able to act accordingly. In fact, I hope you will not hesitate, because of the very important mission you have, to use the considerable powers that you have been given.

Again, a more narrow question which I just wanted to ask for the record: As a member of the Board, you, in fact, will have privileged and unique access to material that may not be available to the public for years, and I wanted to ask you for the record whether you would commit, as I am sure you will, not to use the information gained from service on the Board until such time as that information is publicly available.

Mr. GRAFF. Yes, absolutely.

Mr. TUNHEIM. Yes, absolutely.

Ms. NELSON. Yes.

Mr. HALL. Yes.

Mr. JOYCE. Yes.



Senator LIEBERMAN. I appreciate that very much. I have no further questions. I am open if any of you would like to add anything at this moment.

[No response.]

Senator LIEBERMAN. Well, let me just say that sometimes in this legislative life you don't see the effect of matters of law that you work on. They tend to be invisible. It is nice at least to see this human and very real result of the public concern about the assassination records that led to the legislation that Senator Boren and others played such an active role in that came out this Governmental Affairs Committee, and now to see that President Clinton has carried this out in a superb way by bringing before Congress the five of you who really are just great nominees, in my opinion.

Although it is dangerous to say these days in the nomination process, I fully expect that each of you will be confirmed expeditiously and without any problems. I can tell you that the Subcommittee, and I as Chairman of it, will move as rapidly as we can to bring your nominations before the full Committee and then before the Senate.

The Committee record will be kept open in order for Members of the Committee to have the opportunity to submit additional written questions to you. I don't anticipate that there will be many. Perhaps there will be none, but if we do I ask that you respond to them as rapidly as possible. The record is also open if any of you have any after-thoughts that you would like to submit for the written record, and it is also open for any public written testimony on this matter.

That is all I have to say. I appreciate again that you have all been here. I appreciate your willingness to serve and I conclude the hearing with a real sense of confidence that you are exactly the right group of people to do this very important job that Congress and I believe the American people want you to do, and I thank you for that.

The hearing is adjourned.

[Whereupon, at 11:05 p.m., the Committee was adjourned.]



## APPENDIX

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### PREPARED STATEMENT OF CHAIRMAN GLENN

On November 22, 1963, President John F. Kennedy was assassinated. It was a tragic and defining moment in American history. For all of us who remember exactly where we were when we heard the sad news, it is hard to believe that we have just observed the 30th anniversary of the death of our then-young and much celebrated President. The desire by the American public to understand who shot the late President has resulted in several official investigations and a broad spectrum of private research. These inquiries perhaps have raised more questions than answers, fueling the public's demand for more information, particularly those materials in Government hands. We need public disclosure to replace speculation with facts. Indeed, I feel that speculation and innuendo oftentimes is more cruel than the truth itself.

In 1992, following intensive efforts by the Congress to move expeditiously, the "President John F. Kennedy Assassination Records Collection Act" was enacted as Public Law 102-526. The law requires that information related to the assassination is disclosed to the American public. Perhaps most important, the law was designed to provide the people with an opportunity to reach their own conclusions and opinions.

The legislation had the full support of the Congress, and while the final version was one which I introduced and was approved by the Committee on Governmental Affairs, credit should also to other Members of Congress. In particular, I want to mention my colleague from Ohio in the House, Representative Lou Stokes, a former chairman of the House Select Committee on Assassinations, and in the Senate, Senators Boren, Specter, and also Senator Lieberman who joins us here today.

I am pleased to welcome our nominees here today. We have Anna Nelson, a historian; Kermit Hall, a historian; John Tunheim, an attorney; William Joyce, a librarian; and, Henry Graff, a historian. If confirmed, you will carry the important responsibility of helping Americans better understand their past. Based on some of the records which have gradually been released to date under the law, your role will crucially shape our understanding of the history of our Government in crisis and in transition.

The Review Board is independent. While I offer the assistance and support of the Committee, and of Congress, the citizen's Review Board is intended to provide a forum for public access and advocacy, not to interpose another group of Government officials between the records and the American public.

The Review Board's authority as facilitators, fact finders, advocates, and adjudicators is substantial. In addition to the authority to seek additional information, the Review Board has the authority to direct Government offices to complete identification aids and organize assassination records; direct Government offices to transmit to the Archivist the assassination records as required under the law for public disclosure to the fullest extent; bring to the attention of the President any disagreements that may arise between the Board and an agency that insists on keeping some materials classified; obtain access to assassination records that have been identified and organized by a Government office; subpoena private persons to compel testimony, records, and other information relevant to its responsibilities under the law; require any Government office to account in writing for the destruction of any records related to the assassination of President Kennedy; receive information from the public regarding the identification and public disclosure of assassination records; and hold hearings, administer oaths, and subpoena witnesses and documents.

Records which are to be released to the public are required to be transferred to the National Archives for public inspection.

With that as an introduction, I welcome your testimony. Barring any unforeseen problems, it is my intent to move the nominations as quickly as possible through Committee and to the floor for Senate consideration. I know that later on we will have to work to make a technical correction to allow you to perform your duties in the timeframe originally envisioned.

Thank you for being here today and I also want to express my appreciation to Senator Lieberman for his interest in this issue.

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#### PREPARED STATEMENT OF SENATOR BOREN

Mr. Chairman, Members of the Committee, I am pleased to have the opportunity today to introduce you to Kermit L. Hall, one of the President's nominee's for the Assassination Records Review Board. Dean Hall is a distinguished scholar and is eminently qualified to serve on this Board.

When I served as Chairman of the Senate Select Committee on Intelligence, I became acutely aware of the need to clear the air on the events surrounding the death of President John Kennedy. While I have no information that would lead me to draw any conclusions, I believe Americans have a right to know that even the most secret programs of our Government will be conducted in accord with basic American values. I am pleased that the Board soon will be able to carry out its responsibilities and enable our Nation to begin the healing process.

Kermit L. Hall serves as Dean of the College of Arts & Sciences and Professor of Law and History at The University of Tulsa. He holds a doctoral degree from the University of Minnesota and a law degree from Yale Law School. Dean Hall was a Fulbright Scholar in Finland and a Visiting Scholar at the American Bar Foundation.

Dean Hall wrote *The Oxford Companion to the Supreme Court* which received the American Library Association's award for "An Outstanding Reference Work of 1992," Texas Bar Association's Award for the "Best Book on the Supreme Court in 1992," and "American Bar Association's Gavel Award for 1993."

He is currently completing a case history of *New York Times v. Sullivan* under the title *Heed Their Rising Voices* and is supervising the preparation of the *Oxford Companion to American Law*, to be published by Oxford University Press in 1996. He has authored more than 60 scholarly articles and essays in law reviews, political science, and history journals as well as books.

He serves on the editorial boards of the *Law & Society Review*, *Journal of Southern Legal History*, and *Journal of Supreme Court History*. Hall is also the Associate Editor of the *American Journal of Legal History*, editor of *Bicentennial Essays on the Bill of Rights*, a monograph series published by Oxford University Press, co-editor with David O'Brien of *Constitutionalism and Democracy*, a monograph series published by the University of Georgia Press.

He is currently a member of the Board of Directors of the Oklahoma School of Science and Mathematics, the Tulsa Philharmonic, the ERIC Clearinghouse for Social Studies Education, and the Board of Advisors, American Bar Association's Commission on College and University Legal Studies. He is chairperson of the Organization of American Historians' Committee on Access to Lawyer's Papers.

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#### PREPARED STATEMENT OF SENATOR D'AMATO

Mr. Chairman, I am honored today to present to this Committee Henry F. Graff, whom the President has nominated to be a member of the Assassination Records Review Board. I would also like to recognize his wife Edith, and daughter Ellen.

Mr. Graff comes before this Committee with an impressive background as a distinguished educator, and respected authority on American history, specifically the history of the Presidency of the United States. Professor Graff has served his country well as a member of the United States Army, enlisting shortly after the invasion of Pearl Harbor, rising from the rank of Private to First Lieutenant.

Professor Graff received his undergraduate degree from the City College of New York in 1941, graduating magna cum laude. The distinguished Professor went on to Columbia University, where he received a Masters Degree in 1942, and later a Ph.D. Dr. Graff accepted an appointment as lecturer at Columbia in the fall of 1946, where he remained until retirement in 1991. Professor Graff rose through the ranks at Columbia, becoming Chairman of the History Department in 1961.

Professor Graff's many accomplishments include a six year appointment to the National Historical Publications Commission from 1965 to 1971, an appointment made by President Johnson, as well as a long list of consulting positions with well known magazines as well as historical documentaries aired on CBS over the years.

Mr. Chairman, it is with great pleasure that I recommend Professor Graff to be a member of the Assassination Records Review Board. I know of no other person who is more qualified to serve on this important board and I am certain that Dr. Henry Graff will prove worthy of this important appointment.

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#### PREPARED STATEMENT OF SENATOR MOYNIHAN

Mr. Chairman, it is a great pleasure to introduce to the Committee one of America's outstanding historians, Henry F. Graff. Henry is Professor Emeritus and former Chairman of the Department of History at Columbia College, and a friend of many years.

A New Yorker born and bred, Professor Graff enlisted in the Army after Pearl Harbor and served as a Japanese language officer with the Army Security Agency—the predecessor of the NSA. Educated at Columbia University, he joined the faculty there after the war and served with distinction in the History Department for 45 years.

He is the author of a classic work on the historical method, *The Modern Researcher*, and of a standard work on the American presidency. He has specialized in the history of our great Republic, and in particular, in the history of the presidency. Professor Graff is thus eminently qualified to serve on and greatly contribute to the very important work of the Assassination Records Review Board.

I commend him to this honorable Committee, and urge his speedy confirmation.

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#### PREPARED STATEMENT OF HENRY F. GRAFF

I thank the members of the Committee for the opportunity to say a few words on this signal occasion.

First I express my abiding appreciation to the President of the United States for the honor of this important and prestigious nomination to the Assassination Records Review Board, an agency unique in the nation's history. If I am confirmed I aim to help conduct the work of the Board with unquestionable distinction, bearing always in mind the clearly-expressed wishes of Congress that the Board perform its duties with thoroughness and dispatch.

Americans no less than other peoples live not only by ideals and myths but also in the reflected light of their heroes and heroines. For millions of our citizens President John F. Kennedy filled the bill as hero, and his untimely death became a turning point for our country in the history of this troubled century. The circumstances of his assassination have for thirty years been a subject for almost constant review and fresh speculation, sometimes even in immoderate tone.

It is not the burden of the Assassination Records Review Board to bring an end to the discussion of this transforming political event. Rather its assignment is to define and then assemble from a myriad of sources as many as possible of the documents that, when screened appropriately, can be released without delay to the interested public. Ultimately at stake in the Board's labors is not only historical "truth"—insofar as that is discoverable, but also the burnishing of the people's confidence in the trustworthiness of the federal government. Never more so than now in the aftermath of the Cold War has the reputation of the American government for integrity seemed more a force for potential good in the world. An admirable performance by the Assassination Records Review Board, then, will go well beyond merely satisfying historical curiosity about the awful event in Dallas on November 22nd, 1963. It can deliver an incomparable message to people everywhere in the world who love freedom. And I will feel inordinately privileged and proud if I can contribute however modestly to such a lofty end. Again, I thank you very much.

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## BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEE

## A. BIOGRAPHICAL INFORMATION

1. Name:  
Henry Franklin Graff
2. Position to which nominated:  
Member, Assassination Records Review Board.
3. Date of nomination: November 5, 1993.
4. Address:  
47 Andrea Lane, Scarsdale, NY 10583-3115. Office at same address.
5. Date and place of birth:  
August 11, 1921, New York, NY.
6. Marital status:  
Married, Edith Krantz.
7. Names and ages of children:  
Iris Graff Morse, 45 years old; Ellen Toby Graff, 39 years old.
8. Education:  
George Washington High School, New York, NY (9/33-6/37). Academic diploma (6/37).  
City College of New York, New York, NY (9/37-6/41) B.S. in S.S. (6/41).  
Columbia University, New York, NY (9/41-5/42) M.A. (6/42).  
Columbia University, New York, NY (3/46-6/49) Ph.D. (6/49).
9. Employment record:  
Fellow, Department of History, City College of New York (9/41-6/42).  
Tutor in History, City College of New York (2/46-6/46).  
Member, Department of History, Columbia University (9/46-6/91), rising through the ranks from instructor to full professor, serving as Chairman, 1961-64.  
Senior Fellow, Freedom Forum Media Studies Center, NY (9/91-6/92).
10. Military Service:  
6/42-5/44 A.U.S., Private to T-3, honorable discharged.  
5/44-3/45 A.U.S., honorable discharge as First Lieutenant, Signal Corps (cryptanalytic and Japanese-language officer).
11. Government experience:  
Member, National Historical Publications Commission, appointed by President Lyndon B. Johnson, 1965, reappointed, 1968.  
Member, Historical Committee, United States Air Force, 1972-80.
12. Previous Appointments: No.
13. Business relationships:  
Director, Rand McNally & Company, Skokie, IL  
Partner, Parkview Realty Company, Yonkers, NY  
Secretary-Treasurer, Graff-47 Realty Corp., Scarsdale, NY  
Chairman, Friends of the Columbia University Libraries  
Former trustee, Columbia University Press
14. Memberships:  
Phi Beta Kappa  
Phi Beta Kappa Associates  
American Historical Association  
Organization of American Historians  
Society of American Historians  
Society of the Historians of American Foreign Relations  
Center for the Study of the Presidency  
Authors Guild  
PEN  
The Century Association  
Sunningdale Country Club  
Council on Foreign Relations
15. Political affiliations and activities:  
(a) None.  
(b) None.  
(c) None.
16. Honors and awards:  
Fellowship, American Council of Learned Societies, 1942.  
Army Commendation Medal, 1945.  
Townsend Harris Medal, the City College of NY, 1966.  
Mark Van Doren Award, Columbia University, 1981.  
Great Teacher Award, Columbia University, 1982.

Kidger Award of the New England History Teachers Association, 1990.  
Senior Fellowship, Freedom Forum Media Studies Center, 1991-2.

17. Published writings:

BOOKS:

*Bluejackets with Perry in Japan* (New York, New York Public Library (1952).

*The Modern Researcher* (with Jacques Barzun) (New York, 1957) Latest edition is the Fifth, published in 1992—hardcover edition by Houghton Mifflin Co., paperback edition by Harcourt Brace.

*The Adventure of the American People* (with John A. Krout) (Chicago, Rand McNally & Co. 1959, second ed., 1968, third ed., 1973).

*American Themes: Selected Addresses of John Allen Krout* (with Clifford L. Lord) (New York, Columbia University Press, 1963).

cons.ed., *The Life History of the United States*, 12 vol. (New York, Time, Inc., 1963-64).

*The Free and the Brave* (Chicago, Rand McNally & Co., 1967, second ed., 1972, third ed., 1977, fourth ed., 1980.) with the Editors of Silver Burdett, Thomas Jefferson (Morristown, NJ, 1967).

ed., *American Imperialism and the Philippine Insurrection* (Boston, Little Brown & Co., 1969).

*The Tuesday Cabinet: Deliberation and Decision on Peace and War under Lyndon B. Johnson* (Englewood Cliffs, NJ, Prentice-Hall, 1970).

*The Call of Freedom* (with Paul J. Bohannon) (Chicago, Rand McNally & Company, 1977).

*The Promise of Democracy* (with Paul J. Bohannon) (Chicago, Rand McNally & Company, 1977).

*This Great Nation: A History of the United States* (Chicago, Riverside Publishing Co., 1983).

*America: The Glorious Republic* (Boston, Houghton Mifflin Co., 1985, Second Edition, 1990).

*The Presidents: A Reference History* (New York, Charles Scribner's Sons, 1985).

CHAPTERS OF BOOKS:

"Problem of the Interregnum," *The Dynamics of the American Presidency*. Compiled and edited by Donald Burce Johnson and Jack L. Walker, New York: John Wiley and Sons, Inc., 1964, pp. 125-128. Reprinted from *The New York Times Magazine*, October 2, 1960, pp. 15, 88-89.

"The Charles River Bridge Case," in *Quarrels That Have Shaped the Constitution*. Ed. by John A. Garraty, New York: Harper and Row, 1964, pp. 62-76. Colophon edition (Harper paperback), 1966.

Chapter 81, "American Imperialism," in John A. Garraty and Peter Gay, eds., *The Columbia History of the World* (New York, 1972).

ARTICLES:

"The Early Impact of Japan upon American Agriculture," *Agricultural History*, 23:2 (April, 1949), pp. 110-16.

"The Lesson of a Japanese Revolution," *Political Science Quarterly*, 65:3 (September 1950), pp. 431-40.

"Bluejackets with Perry in Japan," *New York Public Library Bulletin*, 55:3-22, 66-85, 133-47, 162-80, 225-40, 276-87, 449-50 (Jan-Jul).

"Knowledge for Freedom," *Baltimore Bulletin of Education*, 31-4, April 1954.

"Playing Political Possum Isn't Easy," *The New York Times Magazine*, June 26, 1960, pp. 13, 40-1.

"Problem of the Interregnum," *The New York Times Magazine*, October 2, 1960, pp. 88-9.

"Bipartisanship: Only a Dream," *The New York Times Magazine*, December 25, 1960, pp. 8, 12-3.

"Quipmasters of Politics," *The New York Times Magazine*, September 17, 1961, pp. 16, 39-41.

"The Kind of Mayor LaGuardia Was," *The New York Times Magazine*, October 22, 1961, pp. 46, 52-3.

"McGuffey's Lessons—and Un-Lessons," *The New York Times Magazine*, December 3, 1961, pp. 50-2, 110-15.

"The College Survey Course in American History," *Social Education*, 25:281-3, October 1961.

"CEEB Advanced Placement Examination: American History—Commentary by Henry F. Graff," *Social Education* 26: 251-62, May 1962.

"Decease of the Log-Cabin Legend," *The New York Times Magazine*, June 30, 1963.

"Life With Father, the President," *The New York Times Magazine*, July 14, 1963. Reprinted *The Milwaukee Journal*, November 13, 1963.

"Preserving the Secrets of the White House," *The New York Times Magazine*, December 29, 1963, p. 9, 30-1.

"From Tippecanoe to Scranton, Too," *The New York Times Magazine*, July 5, 1964, pp. 11, 16.

"A Heartbeat Away," *American Heritage*, xv, No. 5 (August, 1974), 81-87.

"The Man Who—Loses," *The New York Times Magazine*, November 15, 1964, pp. 36, 132, 134.

"The Presidency, by the Presidents," *The New York Times Magazine*, April 12, 1964, pp. 18-19, 105.

"Isolationism Again—with a Difference," *The New York Times Magazine*, May 16, 1965, pp. 26-27, 98-100. Reprinted in Congressional Record, iii No. 93 Monday, May 24, 1965, 10981-83. Also reprinted in *Freedom House Reprint Series*, No. 17.

"Decision in Viet Nam: How Johnson Makes Foreign Policy," *The New York Times Magazine*, July 4, 1965, pp. 4-7, 16-20. Reprinted in Robert A. Divine, ed., *American Foreign Policy Since 1945*. Chicago: Quadrangle Books, 1969, pp. 215-32. Abridged, *The Sunday Times* (London), July 4, 1965, pp. 11, 13.

"Teach-in on Vietnam," *The New York Times Magazine*, March 20, 1966, pp. 25, 128-133.

"The Wealth of Presidents," *American Heritage*, xvii, No. 6 (October, 1966) pp. 4-5, 106-111.

"Patriotic Values in America: An Historian's View," *Perspectives in Defense Management*, August, 1968, pp. 1-17.

"Troubled America is Changing," (*Bei wa yamitsutsu Kawatte yuku*), in *Yomiuri Shimbun* (Tokyo), September 28, 1968. First of series, "This is America" (*Zoku Kore ga Amerika da*). Subsequent articles were "Trend of the Times, 'Black-White coexistence'" (*Toki no nagara 'Kuro-Shiro kyoson'*), October 6, 1968; "The Difficult Period of Political Reorganization," (*Seiji saihenki no nayami*), October 8, 1969. Also, in English, "Americans Aware of Need to Adjust Foreign Policy," November 5, 1968.

"Transition at the White House," *The New Leader*, LI, No. 25 (December 30, 1968), pp. 3-7.

"Salo W. Baron: Historian of the Jews" (Symposium), *Jewish Heritage*, xi, No. 4, (Summer, 1969), pp. 45-47.

"Participatory Foreign Policy," *The New Leader*, liii, No. 5 (March 2, 1970), pp. 10-15. Reprinted in *Congressional Record*, cxvi, No. 4 (Friday, March 20, 1970), S4131-3.

"The 'Ordinary Many' as President," *The New Leader*, September 2, 1974, pp. 7-9.

"From Independence to Interdependence," in *America at 200*, Headline Series, no. 227, pp. 36-60. New York, Foreign Policy Association, Inc. 1975.

"The President and the Press," in *Covering the '76 Elections: A Dialogue Between Journalists and Social Scientists* (Columbia Journalism Monograph, NO. 2, 1976).

"To Choose a President," published March 7, 1976 (written for Associated Press).

"Do Americans Understand Democracy?" in *Perspectives in Defense Management*, No. 24, Winter 1975-1976, pp. 69-77.

"Presidents as Penman," in Dora B. Weiner and William B. Keylor, eds., *From Parnassus: Essays in Honor of Jacques Barzun*, New York, 1977.

"Lyndon B. Johnson: Frustrated Achiever," in Philip C. Dolce and George Skau, eds., *Power and the Presidency*, (New York, 1977).

"Presidents are Now Mayors," *The New York Times*, July 18, 1979.

"Electing Civilians," *The New York Times*, February 22, 1980.

"Threats to Presidency," *The New York Times*, July 25, 1980.

"The Vexing of the U.S. Presidency: An Interview with Henry F. Graff," by Ceil Cleveland, *Columbia*, Fall, 1980, pp. 33-7.

#### MISCELLANEOUS PIECES:

Biographical sketch of Jacob Ruppert in *Dictionary of American Biography, Supplement 2*, pp. 589-90 (New York, 1958).



Introduction to Margaret Bassett, *Profiles and Portraits of American Presidents*, (Freeport, Maine, 1964).

Preface to James Warner Bellah, *Soldiers' Battle: Gettysburg, New York 1962*.

#### REVIEW ESSAYS AND REVIEWS:

Numerous reviews and review articles for:

*American Historical Review*

*Journal of Modern History*

*Political Science Quarterly*

*The New Leader*

*Columbia Law Review*

*Saturday Review*

*The New York Times Book Review*

I have also contributed biographical sketches over the years to the *Dictionary of American Biography*. These have allowed me to indulge my affection for baseball. I have written the sketches of

Ty Cobb

Lou Gehrig

Rogers Hornsby

Mel Ott

Jacob Ruppert

Honus Wagner

Heine Zimmerman

Yet to be published are those of Casey Stengel and Jackie Robinson, which will appear shortly in the latest Supplement volumes of the *DAB*.

I contributed the articles on Gerald Ford and Branch Rickey to the *Reader's Companion to American History* (Boston, Houghton Mifflin, 1992).

I contributed the articles on Lyndon B. Johnson, the Great Society, Presidential retreats, and Presidential secretaries to be published in the forthcoming four-volume *Encyclopedia of the American Presidency* (New York, Simon & Schuster, 1993).

I contributed a chapter, "The Campaign of 1928," to *Running for President*, a two-volume history of presidential campaigning edited by Arthur Schlesinger, Jr. and Fred Israel planned for publication by Simon & Schuster in 1994.

I am at work on a book of essays on the Presidency.

In recent years I have written a number of Op-Ed articles for the *New York Times* and the *Los Angeles Times*.

#### 18. Speeches:

I have no texts of formal speeches delivered in the past 5 years.

#### 19. Congressional Testimony:

I have never testified before a Committee of the Congress.

#### 20. Selection:

(a) Do you know why you were chosen for this nomination by the President?

I assume that I was considered to have professional qualifications especially suiting me for the position.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I have spent a lifetime teaching and writing about the history of the presidency and about American history in general. The work of this appointment is bound to draw on the expertness I believe I have acquired.

#### B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

I do not have such connections.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

No.

3. Do you have any plans, commitments or agreements after completing service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

### C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

My fees as a Director of Rand McNally & Company are being deferred until such time as I retire from the Board.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

None.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide copies of any trust or other agreement.)

None will arise.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

### D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense?

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

### E. FINANCIAL DATA

(Retained in Committee Files.)

## AFFIDAVIT

Henry F. Graff being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Subscribed and sworn before me this 16<sup>TH</sup> day of November, 19 93

Gretchen Barbieri  
Notary Public

GRETCHEN BARBIERI  
Notary Public, State of New York  
No. 4776146  
Qualified in Westchester County  
Commission Expires Jan. 31, 19 95

## BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

### BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)  
John Raymond Tunheim.
2. Position to which nominated:  
Assassination Records Review Panel.
3. Date of nomination: September, 1993.
4. Address: (List current place of residence and office addresses.)  
Residence: 704 South Third Street, Stillwater, MN 55082.  
Office: 102 State Capitol, St. Paul, MN 55155
5. Date and place of birth:  
9/30/53, Thief River Falls, MN.
6. Marital status: (Include maiden name of wife or husband's name.)  
Married to Kathryn Hill Tunheim (maiden name: Kathryn J. Hill).
7. Names and ages of children:  
Elizabeth Starr Tunheim, age 9; Samuel John Tunheim, age 5.
8. Education: List secondary and higher education institutions, dates attended, degree received and date degree granted.  
Marshall County Central High School, Newfolden, MN, 1965-1971, June, 1971;  
Concordia College, Moorhead, MN, 1971-1975, BA *summa cum laude* with honors, May, 1975;  
University of Minnesota Law School, Minneapolis, MN, 1977-1980, J.D. *cum laude*, June 1980.
9. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)
  1. United States Senate, Office of Senator Hubert H. Humphrey, Field Representative, Minneapolis, MN, 7/75 to 10/77.
  2. Freeman for Congress, Press and Issues Director, St. Louis Park, MN, 6/78 to 11/78.
  3. Oppenheimer, Wolff, Foster, Shepard & Donnelly (law firm), Summer Associate, St. Paul, MN, 6/79 to 9/79.
  4. United States District Court, Senior U.S. District Judge Earl R. Larson, Judicial Law Clerk, Minneapolis, MN, 8/80 to 8/81.
  5. Oppenheimer, Wolff, Foster, Shepard & Donnelly (law firm), Associate Attorney, St. Paul, MN, 10/81 to 11/84.
  6. State of Minnesota, Office of Attorney General, Assistant Attorney General, Manager, Public Affairs Litigation Division, St. Paul, MN, 11/84 to 9/85.
  7. State of Minnesota, Office of the Attorney General, Solicitor General, St. Paul, MN, 9/85 to 6/86.
  8. State of Minnesota, Office of the Attorney General, Chief Deputy Attorney General, St. Paul, MN, 6/86 to present.
10. Military Service: List any military service, including dates, rank, and type of discharge.  
None.

11. Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those listed above.

- Federal Practice Committee, United States District Court for the District of Minnesota; member (1990 to present).
- Advisory Committee on Reducing Cost & Delay, United States District Court for the District of Minnesota; member (1991-present); chair, Internal Court Management Subcommittee (1991-present).
- Stillwater City Charter Commission; member (1989-present); Vice-chair (1992-present).
- Washington County Planning Advisory Commission; chair (1989-1992); member (1985-1992).
- Governor's Select Committee on the Impact of Drugs on Crime, Education, and Social Welfare; member (1989-1990).
- Governor's Blue Ribbon Commission on the Crisis in Liability Insurance; member (1987-1988).
- Minnesota State Bar Association/Attorney General Task Force on Legal Advice to Farmers; chair (1985-1986).
- Governor's Superfund Task Force; member (1984-1985).

12. Previous Appointments: Prior to this appointment, have you ever been nominated for a position requiring confirmation by the Senate? If so, please list each such position, including the date of nomination, Senate confirmation, and Committee hearing, if any.

No.

13. Business relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

Tunheim Lakeshore Partnership, Pelican Rapids, MN (family partnership formed to own a vacation home).

14. Memberships: List all memberships and offices held in professional, business, fraternal, scholarly, civil, public, charitable and other organizations.

American Bar Association (1981-present).

- Member, Special Committee on Lawyers in Government (1990-91) (appointed).
- Secretary and Council Member, Government & Public Sector Lawyers Division (1993-present) (elected).
- Treasurer and Council Member, Government & Public Sector Lawyers Division (1991-1993) (elected).

Minnesota State Bar Association (1981-present).

- Co-Chair, Task Force on Legal Advice to Farmers (1985-1986).
- Member, Court Rules Committee (1989-1990).
- Co-Chair, Government Lawyers Task Force (1989-1991).
- Co-Chair, Public Law Section (1991-1992).
- Executive Council, Public Law Section (1992-present).

Member, Board of Directors, Minnesota Institute for Legal Education (1990-present) (nonprofit).

Member, Board of Directors, Family Service St. Croix (1990-present) (nonprofit); Vice-Chair (1993-present).

Member, Board of Directors, Midsummer: A Minnesota Festival of Music (1988-present) (nonprofit).

Member and Secretary, Board of Directors, Minnesota Pregnancy & Infant Loss Center (1983-85) (nonprofit).

Member, Stillwater Rotary Club (1984-present).

15. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

Minnesota Democratic-Farmer-Labor Party.

- Delegate, Democratic National Convention 1988, 1992.
- Associate Chair, Sixth Congressional District (1991-present).
- Member, Executive Committee (1991-present).
- Member, Central Committee (1984-present).
- Chair, Senate District 55 (1986-1990).

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Political party memberships: All listed in 15(a). I have not been an officer for any election committee during the past ten years.

I was elected a delegate to the Democratic National Convention in 1988 and 1992.

Services rendered to parties and election committees have all been volunteer, sporadic activities such as attending fundraisers and occasional campaign rallies, attending party meetings and conventions, and some doorknocking and telephoning on behalf of local and statewide candidates. Assisted in organization of the endorsement event by Democratic Attorneys General of the Clinton-Gore ticket in Detroit, Michigan, in October, 1992.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 5 years.

These include all contributions which in aggregate total \$50.00 or over to any entity over the period 1990-1993. I was unable to locate any records for 1989. I do not believe there were any significant contributions during that year.

Minnesota Democratic-Farmer-Labor Party (all units):

1993 .....	\$774.50
1992 .....	417.00
1991 .....	133.00
1990 .....	85.00
1989 .....	cannot locate
	(estimated: \$50.00)

	1990	1991	1992	1993
Johnston for State Senate, Maple Plain, MN .....			\$50	
Friends of Draper for State Representative, Stillwater, MN .....	\$60		80	
Spaeth for Governor, Bismarck, ND .....			50	
Clinton for President, Little Rock, AR .....			300	
Citizens for Keith for Chief Justice, St Paul, MN .....			50	
Humphrey for Attorney General Volunteer Committee, St. Paul, MN .....	100		125	\$100
Evert for Washington County Commissioner, Stillwater, MN .....			50	
Alan Page for Justice, Minneapolis, MN .....			100	
Coleman for Mayor, St. Paul, MN .....			25	100
Freeman Volunteer Committee, Richfield, MN (State Senate and Hennepin County Attorney) .....	300	\$50		50
Freeman for Governor, Minneapolis, MN .....				100
Rice for State Representative Volunteer Committee, Minneapolis, MN .....				100
Knutson for DNC, Hutchinson, MN .....				50
DNC Federal Account, Washington, DC .....				1,025
Democratic National Committee, Washington, DC .....				25
Wellstone for U.S. Senate, Minneapolis, MN .....	150	25		
DNC Victory Fund, Washington, DC .....			1,000	
Chandler for State Senate, White Bear Lake, MN .....	125			
Fuller for State Senate, Oakdale, MN .....	100			
Friends of Dayton for State Auditor, Minneapolis, MN .....	100			
Friends of Dooley for State Representative, Stillwater, MN .....	90			
Perpich for Governor Volunteer Committee, St. Paul, MN .....	100			
Jan George for State Representative Volunteer Committee, Mahtomedi, MN ....	80			

16. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements?

National Association of Attorneys General, Marvin Award (1991). (Awarded annually to up to 5 outstanding assistant attorneys general in U.S.)

National Association of Attorneys General, President's Distinguished Service Award (1988).

Mondale Fellow, University of Minnesota, Hubert H. Humphrey Institute of Public Affairs, Minneapolis (1992-1993).

Roll of Award, University of Minnesota Law School (1980). Awarded to President/Editor-in-Chief of the Minnesota Law Review.

Minnesota Journal of Law & Politics, Selected as "Rising Star Lawyer," (1993).

17. Published writings: List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written. It would be helpful for the Committee to have three copies of each published writing. Please denote any of those for which you are unable to provide copies.

Book: A Scandinavian Saga (Lakes Publishing, 1984).

Article: "Parental Involvement in Minor's Abortions: The Aftermath of *Hodgson v. Minnesota*" and *Ohio v. Akron Center for Reproductive Health*, "Abortion and The States, Political Change and Future Regulation," Jane B. Wishner, Editor (American Bar Association, Section of Urban, State and Local Government Law) (1993).

Chapter: State Legislative Activities, "State Attorneys General, Powers and Responsibilities," Lynn Ross, Editor (BNA: Washington, D.C. 1990).  
I also served as an editor on this book.

Article: "Minnesota's Bill of Rights" (William Mitchell Law Review). (In progress, no copy available, scheduled for publication in 1994.)

Op. Ed.: "Americans Should Lend Russia a Hand on Democratic Journey," St. Paul Pioneer Press (January 8, 1992).

18. Speeches: Provide the Committee with three copies of any formal speeches you have delivered during the last 5 years of which you have copies and are on topics relevant to the position for which you have been nominated.

None.

19. Congressional Testimony: Have you ever testified before a Committee of the Congress? If so, please provide details, including date(s).

No.

20. Selection:

(a) Do you know why you were chosen for this nomination by the President?

I was one of six lawyers recommended for nomination to President Bush in December, 1992 by the President of the American Bar Association, J. Michael McWilliams, as required by the statute. The recommendation was unsolicited. I was selected from the recommendations.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

I have extensive public law experience, including over seven years as the senior managing lawyers in a highly-regarded attorneys general's office with over 425 staff members. I have handled many of the most sensitive legal disputes involving the State of Minnesota over that time, personally arguing three United States Supreme Court cases and winning two. I have served throughout as the chief legal counsel to the Governor of Minnesota. I have considerable experience dealing with Minnesota's open records law and have a reputation of approaching issues in a fair, thoughtful and impartial manner. I have not been involved in any dispute over the assassination records and believe that, although I am a strong believer in openness in government, I will approach the task in a fair manner. I have considerable experience setting up governmental organizations and administrative processes and believe that experience will be helpful in organizing the process by which the Panel will conduct its work. I have played a leadership role within the National Association of Attorneys General, particularly on management-related issues.

#### B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

No. My understanding is that the position is part-time and I have no conflict of interest in my current position. I will take leave time from the State for any days I am working on panel business.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Yes. I will continue my employment with the State of Minnesota and a planned position as Adjunct Professor of Constitutional Law at the University of Minnesota Law School.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Yes. Continue my current position.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

Not in any position other than my current position.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

I expect to serve the full term of the Panel which sunsets under current law.

#### C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

None.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

When employed by Oppenheimer, Wolff, Foster, Shepard & Donnelly, in 1983, I represented business interests on workers compensation legislation before the Minnesota Legislature; and in 1984, I represented a major communications company on tax legislation before the Minnesota Legislature. For both activities, I was registered as a lobbyist with the Minnesota Ethical Practices Board.

Since being employed by the Minnesota Attorney General's Office, I have been involved significantly in the development of legislation in Minnesota, including primary responsibility for the budget of the Attorney General's Office each year from 1986 to present. I have also worked with the Minnesota Legislature on criminal justice issues, environmental issues, farm credit issues, consumer issues, government records issues, labor issues and others. My work has included drafting legislation, testifying before legislative committees, serving on task forces, writing legal opinions, and working with and advising staff, legislators, and governors.

My entire employment experience in the Attorney General's Office has involved the administration and execution of law or public policy. I have been the senior appointed official in the office for over seven years, responsible for the management of the office. None of my activities have involved any records dispute with a federal agency or anything regarding assassination records.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide copies of any trust or other agreements.)

I cannot imagine what conflict might arise, but if there is one I would not take part in any decision of the panel affecting my conflict of interest.

6. Do you agree to have written opinions provided to the committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

#### D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere* of any criminal violation other than a minor traffic offense?

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

#### FINANCIAL DATA

(Retained in Committee Files.)

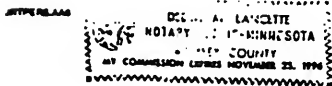
## AFFIDAVIT

John R. Tunheim being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

John R. Tunheim

Subscribed and sworn before me  
this 4<sup>th</sup> day of November, 1993.

[Signature]  
Notary Public



## BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEE

## A. BIOGRAPHICAL INFORMATION

1. Name:  
Anna Kasten Nelson (former name used: Anna Louise Kasten).
2. Position to which nominated:  
John F. Kennedy Assassinations Records Review Board.
3. Date of nomination: October 25, 1993.
4. Address:  
Residence: 3121 Quebec Pl., N.W., Washington, D.C. 20008.  
Office: Department of History, The American University, Washington, D.C. 20016.
5. Date and place of birth:  
Fort Smith, Arkansas, 12/1/32.
6. Marital status:  
Married, Paul Nelson.
7. Names and ages of children:  
Eric M., 34, and Michael S., 31.
8. Education: List secondary and higher education institutions, dates attended, degree received and date degree granted.  
Ft. Smith (AR) High School, 1950.  
Ft. Smith Junior College (now Westark), 1950-1952, A.A.  
University of Oklahoma, 1952-1954, B.A.  
University of Oklahoma, 1954-1956, M.A.  
Ohio State University, 1961-1964, Ph.D. candidate.  
George Washington University, 1965-1972, Ph.D.
9. Employment record: List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.  
PROFESSIONAL EXPERIENCE, *Academic*  
Adj. Professor in History, The American University, 1986-1988, 1992-  
Distinguished Visiting Professor in History, Arizona State University, January-June, 1992.  
Assoc. Professor in History, The American University, 1991.  
Adj. Assoc. Professor in History, Tulane University, 1988-1990.  
Director, Landmarks Program in American History, The American University, 1987-1988. Coordinated a biennial conference cosponsored by the Smithsonian's National Museum of American History, "Women and the Constitution: 200 Years."  
Adjunct Associate Professor in History, George Washington University, 1977-1985.  
Director, History and Public Policy Program, George Washington University, 1980-82. Established a new M.A. program within the history depart-



ment to prepare historians for professional participation in public agencies and private organizations concerned with public policy.

Visiting Assistant Professor in History, George Washington University, 1975-1976. One year appointment in U.S. Diplomatic History.

Instructor, Assistant/Associate Professorial Lecturer in History, George Washington University, 1970-1975.

**PROFESSIONAL EXPERIENCE, Concurrent Non-Academic Positions**

Consultant, Historical Division, Army Corps of Engineers, 1985-89. Prepared a book length manuscript on the history of the Office of the Assistant Secretary of the Army/Civil Works. Book based upon research in federal records and manuscript collections as well as oral interviews.

Project Director, Committee on the Records of Government, July 1983-April 1985. Chief investigator, administrator, and author with Committee Chairman Ernest R. May of the final report of a foundation funded study sponsored by ACLS, SSRC, and CLR. Creation of the Committee was prompted by a concern for the effect of technological changes (principally computers) on public records and archives.

Historical Consultant, National Academy of Public Administration panel, "The Role of the President in Managing the Federal Government," 1979-80. Organized and coordinated research in four presidential libraries and the National Archives for a group of political scientists preparing issue papers for panel meetings, and books and articles for publication. Prepared a chapter for publication on the President and the National Security Council.

Consultant, Congressional Research Service (National Government Division), Library of Congress, July-August, 1979. Organized and prepared a report on government historical offices, federal records and the National Archives and Records Service. This report was prepared at the request of the Subcommittee on Government Information, Government Operations Committee, U.S. House of Representatives.

Consultant, Congressional Research Service (Foreign Affairs and National Defense), Library of Congress, September 1978-January, 1979. Researched material in presidential libraries and private manuscript collections for a report on the role of Congress in the Vietnam War. Also conducted oral interviews with former members of Congress and former members of the Executive.

Staff Consultant, Select Committee on Congressional Operations, U.S. House of Representatives, July-September, 1978. Organized, researched and prepared a draft report on the records of the House of Representatives and the papers of Members of Congress.

Consultant, Bicentennial Council of the Thirteen Original States, September 1977-February 1978. Prepared history-related material for a commemorative conference held in York, Pennsylvania, November 1977. Assisted in conducting a conference of educators from museums, libraries, national organizations and adult education groups.

Interim Director, "Project 87," a project co-sponsored by the American Historical Association and the American Political Science Association, June-August, 1977. Coordinated the activities of the funding groups and sponsoring organizations. Created an administrative framework for the initial stage of the project.

Research Associate, National Study Commission on Records and Documents of Federal Officials, June 1976-May 1977. Initiated and prepared two studies for the Commission; a study of foreign policy records and papers, and a study of government historical offices and public records. Also prepared a study of the federal depository library program, assisted the director in conducting panels and public hearings and assisted in writing and editing the first and subsequent drafts of the Commission report.

10. Military Service: List any military service, including dates, rank, and type of discharge.

None.

11. Government experience: List any advisory, consultative, honorary or other part-time service or positions with Federal, State, or local governments, other than those list above.

a. Department of State Advisory Committee on Historical Diplomatic Documentation (Representing the Organization of American Historians).

b. Reviewer and/or Panel Participant, National Endowment of the Humanities.

12. Previous Appointments: Prior to this appointment, have you ever been nominated for a position requiring confirmation by the Senate?

No.

13. Business relationships: List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

None.

14. Memberships: List all memberships and offices held in professional, business, fraternal, scholarly, civic, public, charitable and other organizations.

American Historical Association

Jt. Committee of Historians & Archivists, 1988–1991.

Member (elected), Research Division, 1986–1988.

Congressional Fellowship Committee, 1984.

Organization of American Historians

Committee on Access, 1982–1988 (Chair, 1984–1986).

Jt. Committee of Historians & Archivists, 1982–1984 (Chair, 1983).

Frederick Jackson Turner Prize Committee, 1980.

Society for Historians of American Foreign Relations

Editorial Board, *Diplomatic History*, 1991–1993.

Committee on Documentation, 1989–1991 (Chair).

Government Relations Committee, 1985.

National Council of Public History

Editorial Board, *The Public Historian*, 1991–1993.

Publications Committee, 1985–1989 (Chair)

Executive Committee, 1984–1986.

Society for History in the Federal Government

Executive Committee, 1980, and 1993–1994.

15. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 5 years.

Records only available for last three years.

1991—Emily's List .....	\$200
1992—Emily's List .....	\$700
1993—Emily's List .....	\$100

16. Honors and awards: List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Society for History in the Federal Government, FRANKLIN D. ROOSEVELT PRIZE, 1988 (For the Advancement of Historical Study of the Federal Government).

Harry S. Truman Library Institute, RESEARCH GRANT, 1987.

American Historical Association, BEVERIDGE GRANT, 1985.

George Washington University, GRADUATE FELLOWSHIP, 1968.

University of Oklahoma, TUITION SCHOLARSHIP, 1953.

17. Published writings: List the titles, publishers, and dates of books, articles, reports or other published materials which you have written. It would be helpful for the Committee to have three copies of each published writing. Please denote any of those for which you are unable to provide copies.

#### PUBLICATIONS:

"The Importance of Foreign Policy Process: Eisenhower and the National Security Council," in *Eisenhower: A Centenary Assessment*, LSU Press, (forthcoming).

"The Ubiquitous Mr. Clifford," (Review Essay), *Diplomatic History*, Winter 1993.

"The Historian's Dilemma," *Understanding Congress: Research Perspectives*, Government Printing Office, 1991.

"President Kennedy's National Security Policy: A Reassessment," *Reviews in American History*, March 1991.

"Government-Sponsored Research: A Sanitized Past?" (Roundtable), *The Public Historian*, Summer 1988.

"John Foster Dulles and the Bipartisan Congress," *Political Science Quarterly*, Spring, 1987.

"The Committee on the Records of Government: An Assessment," *Government Information Quarterly*, Spring, 1987.

"Jane Storms Cazneau: Disciple of Manifest Destiny," *Prologue*, Spring, 1986.

"President Truman and the Evolution of the National Security Council," *Journal of American History*, September 1985.

"On Top of Policy Hill: President Eisenhower and the National Security Council," *Diplomatic History*, Fall, 1983.

*State Department Policy Planning Staff Papers, 1947-1949* (3 vols.), (ed.) Garland Press, 1983.

"The Public Documents Commission: Politics and Presidential Records," *Government Publications Review*, Vol. 9, 1982.

"Challenge of Documenting the Federal Government in the Latter 20th Century," *Prologue*, July, 1982.

"National Security I: Inventing A Process (1947-1960)," Hecla/Salamon, eds. *The Illusion of Presidential Government*. Westview Press, 1981.

"Destiny and Diplomacy, 1845-1865, Haynes/Walker, eds. *American Foreign Relations: A Historiographical Review*, Greenwood Press, 1981.

"Disorder in the House: The Inaccessible Record," *The Public Historian*, Summer, 1980.

*The Records of Federal Officials*, (ed.) Garland Press, 1979.

"Government Historical Offices and Public Records," *American Archivist*, October, 1978.

"Mission to Mexico: Moses Y. Beach, Secret Agent," *New York Historical Society Quarterly*, July, 1975.

"Secret Agents and Security Leaks: James K. Polk and the Mexican War," *Journalism Quarterly*, Spring, 1975.

*Secret Agents: President Polk and the Search for Peace with Mexico*, Revised Ph.D. dissertation published in the Modern American History Series, Garland Press, 1988.

#### PROFESSIONAL NEWSLETTERS AND NEWSPAPERS:

"The U.S. Must Declassify Its Cold-War Documents," (with Richard H. Kohn), *The Chronicle of Higher Education*, (Point of View), September 16, 1992.

"Congress Must Harness NSC," *New Orleans Times-Picayune*, July 14, 1989.

"Irrational Policies on Access to Government Records Are Undercutting Our Ability to Understand History," *The Chronicle of Higher Education*, (Point of View), September 28, 1988.

"Classified History," *Newsletter*, Organization of American Historians, August, 1984.

"In Support of History," *Perspectives* (American Historical Association Newsletter), February, 1984.

"History Without Historians," *Newsletter*, American Historical Association, February, 1978.

"Foreign Policy Records and Papers: A Case Study of One Group of Documents," *Newsletter*, Society for Historians of American Foreign Relations, June-December, 1977.

#### BOOK REVIEWS:

*American Archivist*, (Fall, 1988); *Annals of Iowa*, (Summer, 1988); *Journal of Southern History*, (Summer, 1988); *The Public Historian* (Summer, 1988); *Southwestern Historical Quarterly*, January, 1989), *Technology and Culture*, (April, 1989); *Political Science Quarterly*, (Spring, 1989); *Journal of American History*, (June, 1991); *American Historical Review*, (April, 1992); *Public Historian* (Summer, 1992); *Journal of American History*, (December, 1992).

18. Speeches: Provide the Committee with three copies of any formal speeches you have delivered during the last 5 years of which you have copies and are on topics relevant to the position for which you have been nominated.

The following is a list of speeches. Some have been reprinted (see publications). Others do not seem relevant to this position but can be made available to the Committee if so desired.

"Foreign Policy of Woodrow Wilson," Smithsonian Associates, October 1993 (notes only).

"Rethinking NSC 68," Seminar on the Cold War, Institute of Policy Studies, October 1991.

"George Aiken: Senator from Vermont," Aiken Lecture Series Conference, October 1991.

"Eisenhower and the National Security Process," Lecture, Eisenhower Center, University of New Orleans, October, 1990.

"The Evolution of the American Foreign Policy Process from Roosevelt to Reagan," Lecture, Foreign Relations Association of New Orleans, April 1990 (notes only).

"Kennedy's National Security Policy: A Reassessment," American Historical Association, December 1989.

"Researching Congress: The Paradox of Sources," A Bicentennial Research Conference on the Congress, 1989.

"Before the National Security Adviser: Did the NSC Matter?" Soc. for Historians of American Foreign Relations, June 1988.

"Themes in American Diplomacy," Foreign Service Institute, May 1988 (notes only).

19. Congressional Testimony: Have you ever testified before a Committee of the Congress? If so, please provide details, including date(s).

a. Senate Judiciary Subcommittee on the Constitution, November 12, 1981, in support of Freedom of Information Act, (FOIA). Representing the Organization of American Historians (OAH).

b. House Subcommittee on Government Information and Individual Rights, March 10, 1982, in opposition to the draft Executive Order on National Security Information. Representing the American Historical Association (AHA), OAH, and Society of Historians of American Foreign Relations (SHAHR).

c. Senate Select Committee on Intelligence, June 28, 1983, on S. 1324, in opposition to the CIA modification of FOIA. Representing OAH and AHA.

d. Senate Committee on Governmental Affairs, September 9, 1986, in opposition to unqualified nominee for Archivist of U.S. Representing the Society for History in the Federal Government.

e. House Subcommittee on Rules of the House, September 17, 1986, in support of H.Res. 114 (preservation and access to House records), Representing the National Coordinating Committee for the Promotion of History.

20. Selection:

(a) Do you know why you were chosen for this nomination by the President? Name included on list of names provided by the American Historical Association.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment.

First, since 1976, when I became a staff member of the Public Documents Commission, I have been engaged in studies of public records and have become knowledgeable about government recordkeeping and archival practices. I also have been a consistent supporter of the preservation of records and timely access for historical research. Between 1980 and 1988, I participated as a speaker on 15-16 programs having to do with public records, archives or government information policy.

Second, as an active researcher in foreign policy records as well as congressional records during the initial stages of the Cold War era, I also have an understanding of the nature of research and the kind of documentation required for such research.

Third, as a member of an advisory committee on documentation in the State Department (which required a security clearance), I have an appreciation of the kinds of documents that government agencies find too sensitive to release.

Finally, I believe that in my work on preservation and access I have illustrated a personal integrity that has allowed me to gain the trust of my professional colleagues.

## B. FUTURE EMPLOYMENT RELATIONSHIPS

Not Applicable.

## C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

None.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None.

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

See item 19, testimony before Congress.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide copies of any trust or other agreements.)

Not applicable.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

#### D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group?

No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense?

No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation?

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense?

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

No additional information seems necessary.

#### E. FINANCIAL DATA

(Retained in Committee Files.)

### BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEE

#### A. BIOGRAPHICAL INFORMATION

1. Name:

William L. Joyce.

2. Position to which nominated:

Member of the Assassination Records Review Board.

3. Date of nomination: Friday, October 22, 1993.

4. Address:

99 McCosh Circle, Princeton, N. J. 08540-5626.

Princeton University Library, 1 Washington Rd., Princeton, N.J. 08544-2098.

5. Date and place of birth:

Rockville Centre, N.Y. on March 29, 1942.

6. Marital status:

Married on August 13, 1967 to Carol Bertani Joyce.

7. Names and ages of children:

Susan, age 25, and Michael, age 21.

8. Education:
  - Freeport (N.Y.) Junior-Senior High School, September, 1954-June, 1960, N.Y.S. Regents High School diploma.
  - Providence (R.I.) College, September, 1960-June, 1964, B.A. degree.
  - St. John's University (N.Y.) September, 1964-June, 1966, M. A. degree.
  - The University of Michigan at Ann Arbor, September, 1966-August, 1974, Ph.D. degree in American history.
9. Employment Record:
  - William L. Clements Library, The University of Michigan, Manuscripts Librarian: March, 1968-September, 1972.
  - American Antiquarian Society, Worcester, Massachusetts, Curator of Manuscripts: October, 1972-July, 1981, Education Officer: July, 1977-July, 1981.
  - The New York Public Library New York, N.Y., Assistant Director for Rare Books and Manuscripts: August, 1981-December, 1985.
  - Princeton University Library, Princeton, N.J., Associate Librn. for Rare Books and Special Collections: January, 1986-present.
10. Military Service:
  - None.
11. Government experience:
  - City of Worcester, Mass., Stubbs Drawings Fund Advisory Committee, 1979-80.
  - Massachusetts L.S.C.A. Advisory Board, 1975-77.
  - New York State Historical Records Adv. Board, 1984-86.
  - New Jersey State Historical Records Adv. Board, 1987-.
  - Panelist, National Endowment for the Humanities, 1975, 1980, 1988, and 1990.
  - Project consultant, "Assessment and Reporting Project," National Historical Publications and Records Commission, 1983-84.
12. Previous appointments:
  - I have not previously been nominated for any position requiring Senate confirmation.
13. Business relationships:
  - Trustee, Conservation Center for Art and Historic Artifacts, 1992-present.
  - Consultant to:
    - Essex Institute, Salem, Mass., 1980-81.
    - New Bedford Whaling Museum, 1980-83.
    - Dukes County (Mass.) Historical Society, 1979.
    - The University of Wyoming, 1980.
    - The New York Historical Society, 1984-85, 1987-88, and 1990.
14. Memberships:
  - Society of American Archivists
    - Committee on Professional Standards, 1987-1992 (Chairman, 1988-1989).
    - Vice-President then President, 1985-1987.
    - Council, 1981-1985.
    - Co-chairman, 1981 Program Committee, Annual Meeting, Berkeley, CA
  - Fellow, 1981.
  - Member, Committee on Archival Information Exchange, 1982-1984.
  - Chairman, Task Force on Institutional Evaluation, 1977-1982, (see Publications).
  - Member, Committee on Education and Professional Development, 1976-1985.
  - Princeton Library in New York
    - Trustee, 1993-.
  - Rare Books and Manuscripts Section, Association of College and Research Libraries (ALA)
    - Vice-chairman then Chairman, 1987-1989.
    - Planning Committee, 1991-1993.
    - Continuing Education Committee, 1984-1986.
    - Publications Committee, 1985-1989.
  - Bibliographical Society of America
    - Chairman, Fellowship Committee, 1981-1985.
    - Advisory Committee Chairman, Publishing History Sources Project, 1984-1990.
  - Research Libraries Committee, co-sponsored by the American Council of Learned Societies, The Association of American Universities, and the Council on Library Resources, 1987-1990.
  - The Grolier Club of New York City, 1983-.

Council, 1990–93.

Research Libraries Group

Advisory Task Force on Functional Requirements for the AMC Format, 1980–1981.

Committee on Archives and Special Collections, 1985–1991.

American Historical Association

Member (elected), Professional Division Committee, 1979–1981.

Memberships only:

American Antiquarian Society.

American Library Association.

American Printing History Association.

Colonial Society of Massachusetts.

Mid-Atlantic Region Archives Conference.

New York Historical Society.

Friends of the New York Public Library.

Princeton Club of New York.

William L. Clements Library Associates, The University of Michigan.

15. Political affiliations and activities:

(a) I have never held office in a political party or been a candidate for public office.

(b) I have not been a member of or held office in a political party or election committee.

(c) Though I have made contributions to candidates for public office, I have never contributed as much as \$50 to any candidate.

16. Honors and awards:

Graduate assistantship, St. John's University, 1966.

Dissertation research grant, The University of Michigan, 1970.

Fellow, Society of American Archivists, 1981.

17. Published writings:

"The Scholarly Implications of Documentary Forgeries," in *Forged Documents: Proceedings of the 1989 Houston Conference*, Pat Bozeman, ed. New Castle, Del.: Oak Knoll Books, 1990.

"Foxes Guarding the Hen House: Archivists in Special Collections," *Provenance: Journal of the Society of Georgia Archivists*, v. 7 (1989), 53–60.

"Archival Education: Two Fables," *American Archivist*, v. 51 (1988), 16–22.

"The Evolution of the Concept of Special Collections in American Research Libraries," *Rare Books and Manuscripts Librarianship*, v. 3 (1988), 19–30.

"An Uneasy Balance: Voluntarism and Professionalism," *American Archivist*, v. 50 (1987), 7–12.

"Rare Books, Manuscripts, and Other Special Collections Materials: Integration or Separation?" *College and Research Libraries*, v. 45 (1984), 442–45.

"Archivists and Research Use," *American Archivist*, v. 47 (1984), 124–33.

"Historical Records Repositories," in *Documenting America: Assessing the Condition of Historical Records in the States*, Lisa B. Weber, ed. (Washington, D.C.: National Historical Publications and Records Commission, 1984).

with David D. Hall, Richard D. Brown and John B. Hench, eds. *Printing and Society in Early America*, (Worcester, Mass.: American Antiquarian Society, 1983).

with Mary Jo Pugh, *Evaluation of Archival Institutions: Services, Principles, Guide to Self-Study* (Chicago: Society of American Archivists, 1982).

"Antiquarians and Archaeologists: The American Antiquarian Society, 1812–1912," *Proceedings of the American Antiquarian Society*, v. 89 (1979), 123–52.

"Introduction," in *Catalogue of the Manuscript Collections of the American Antiquarian Society*, 4 vols. (Boston: G.K. Hall and Co., 1979).

with Michael G. Hall, "The Half-Way Covenant of 1661: Some New Evidence," *Proceedings of the American Antiquarian Society*, v. 87 (1977), 97–110.

Editors and Ethnicity: A History of the Irish-American Press. 1848–1883 (New York: Arno Press, 1976).

18. Speeches:

I do not believe that I have made any speeches on topics directly relevant to the position for which I have been nominated.

19. Congressional testimony:

On March 10, 1987 I testified briefly as President of the Society of American Archivists before the House Committee on Appropriations, Subcommittee on the Interior, in support of the annual appropriation for the National Endowment for the Humanities.

20. Selection:

(a) I was selected by the President from among three nominees supplied by the President of the Society of American Archivists, in accordance with the procedure outlined in Assassination Materials Disclosure Act of 1992 (P.L. 102-526).

(b) My education as a historian and my background and experience as a professionally active archivist, curator, research library administrator, and archival educator qualifies me for the position for which I have been nominated.

#### B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Because the position for which I have been nominated is a temporary responsibility as a member of a Federal board, I have not resigned my permanent, full-time position at Princeton University.

2. I have not resigned my permanent position at Princeton University, as I have stated above, and expect to meet my responsibilities at Princeton while also serving the government. I also have a temporary teaching assignment for a twelve week period, from January 10 through March 25, 1994, at the University of California, Los Angeles, though I have arranged my schedule in order to be able to attend meetings of the Assassination Records Review Board. I have also arranged a leave from Princeton for this period.

3. My only commitment during my service with the government is to continue in my permanent position working for Princeton University, as stated above.

4. The only commitment that I have after my government service is concluded is to continue my work in the Princeton University Library. I have received no other offers for commitment of my services after this assignment is concluded.

5. If confirmed, I will continue my service on the Assassination Records Review Board for as long as necessary.

#### C. POTENTIAL CONFLICTS OF INTEREST

1. The only financial arrangements that I have maintained are those related to the exercise of my duties in the Princeton University Library and as a temporary instructor in the Graduate School of Library and Information Science at UCLA this coming Winter quarter.

2. I do not believe that I have any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position for which I have been nominated.

3. I do not believe that I have had any business relationship, dealing, or financial transaction over the last ten years that could constitute or result in a possible conflict of interest in the position for which I have been nominated.

4. In the past ten years, the only activity in which I have engaged to influence the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy, has been to write occasional letters on behalf of legislation affecting my chosen professions of research librarianship and archives.

5. Should there be any possible conflicts of interest in connection with my service as a member of the Assassination Records Review Board, I would receive information from all affected parties, and take appropriate steps to eliminate the conflict.

6. I agree without reservation to having written opinions provided to the Committee by the designated agency ethics officer of the agency for which I have been nominated, as well as by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to my serving in the position for which have been nominated.

#### D. LEGAL MATTERS

1. I have never been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group.

2. I have never been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county municipal law, regulation, or ordinance.

3. I have not been involved as a party in interest in any administrative agency proceeding or civil litigation, nor has any business of which I am or was an officer.

4. I have never been convicted (or offered pleas of guilty or nolo contendere) of any criminal violation other than minor traffic offenses.

5. I am not aware of any other information, favorable or unfavorable, which I think should be considered in connection with my nomination.



## E. FINANCIAL DATA

(Retained in Committee Files.)

## BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEE

## A. BIOGRAPHICAL INFORMATION

1. Name:  
Kermit L. Hall.
2. Position for Which Nominated:  
Member of the Assassination Records Review Board.
3. Date of Nomination:  
September 9, 1993.
4. Address:  
Home: 1500 S. Frisco, 2F, Tulsa, OK 74119.  
Office: College of Arts & Sciences, Suite 111, Chapman Hall, The University of Tulsa, Tulsa, OK 74104-3189.
5. Date and place of birth:  
31 August 1944, Akron, Ohio, USA.
6. Marital status:  
Married to Phyllis Anne Moke.
7. Names and age of children:  
No children.
8. Education:  
Garfield High School, Akron, Ohio, 1959-1962, Diploma, June, 1962.  
The University of Akron, Akron, Ohio, 1962-1966, B.A., June, 1966.  
Syracuse University, Syracuse, New York, 1966-1967, M.A., August, 1967.  
The University of Minnesota, Minneapolis, Minnesota, 1969-1972, Ph.D., August 1972.  
Yale University Law School, New Haven, Connecticut, 1979-1980, Master of Study of Law, August 1980.  
Harvard University, Institute for Educational Management, Cambridge, Massachusetts, 1993, Certificate, July 1993.
9. Employment Record:  
Resident Advisor, Syracuse University, Syracuse, New York, September 1966-August 1967.  
Second/First Lieutenant, U.S. Army, Army Security Agency, January 1968-December 1969.  
Teaching Assistant, Department of History, University of Minnesota, Minneapolis, Minnesota, January 1969-June 1971.  
Instructor, Metropolitan Junior College, Minneapolis, Minnesota, September 1971-June 1972.  
Assistant Professor, Department of History, Vanderbilt University, Nashville, Tennessee, September 1972-June 1976.  
Assistant/Associate Professor, Department of History, Wayne State University, Detroit, Michigan, September 1976-June 1981.  
Associate/Full Professor of History and Law, University of Florida, Gainesville, Florida, September 1981-July 1992.  
Dean and Professor of History and Law, The University of Tulsa, Tulsa, Oklahoma, July 1992-present.
10. Military Service:  
Second and First Lieutenant, U.S. Army Security Agency, January 1968-December 1969, Honorable Discharge.
11. Government experience:  
Member, Historical Advisory Board, Federal Judicial Center, 1989-present.  
Member, Board of Directors, Oklahoma School of Science and Mathematics, 1992-present.  
Panel Reviewer, National Endowment for the Humanities, Various Panels involving public programming, secondary and higher education, 1989-present.  
Panel Reviewer, National Science Foundation, Law and Social Science Program, 1985-1991.
12. Previous Appointments:  
No previous federal nomination.
13. Business relationships:  
Member, Board of Advisors, American Bar Association, Commission on College and University Legal Studies, 1993-present.  
Member, Board of Trustees, The Tulsa Philharmonic Society, 1993-present.

Member, National Advisory Board, The ERIC Clearinghouse for Social Studies, 1993-present.

Director and Trustee, American Society for Legal History, 1982-1985, 1986-1989.

Advisory Board, "Road to the War of 1812: A Journey Through Early American History," Pure Magic Productions, El Monte, California.

Advisory Board, "Unlikely Heroes," Peterson Productions, Washington, D.C.

Advisory Board, "Simple Justice," New Images Productions, Berkeley, California.

Advisory Board, "The American Constitution," Maryland Public Television, Maryland.

Co-editor, *Constitutionalism and Democracy*, The University Press of Virginia, 1991-present.

Co-editor, *Southern Legal History*, The University of Georgia Press, 1993-present.

Co-editor, *Studies in Western Legal History*, The University of Nebraska Press, 1987-present.

Editor, *Great Cases in American Constitutional History*, McGraw-Hill Publishers, 1991-present.

Editor, *Bicentennial Essays on the Bill of Rights*, Oxford University Press, 1986-present.

14. Memberships:

American Historical Association (Program Committee, Littleton-Griswold Prize Committee, Representative to Project '87, Chairperson, Bill of Rights Education Collaborative).

American Judicature Society.

Organization of American Historians (Program Committee, Chair of Ad Hoc Committee on Access to Lawyers' Papers).

Southern Historical Association (Program Committee).

American Society for Legal History (Chair of Program Committee, Member, Board of Trustees, Chair of Committee on Openness).

The Society of Historians of the Early Republic.

Social Science History Association.

Western History Association (Member, Program Committee, Member, Board of Editors, *Western Historical Review*).

Ninth Judicial Circuit Historical Society.

Phi Alpha Theta (History Honorary).

Omicron Delta Kappa (Leadership Honorary).

Phi Sigma Alpha (Leadership Honorary).

Law & Society Association (Editor, *Fifth Issue: Law & Society Review*, Member, Editorial Board, *Law & Society Review*).

American Bar Association (Member, Advisory Committee, on College and University Legal Education).

The National Audubon Society.

National Geographic Society.

Philbrook Museum.

Gilcrease Museum.

All Souls Unitarian Church.

The Tulsa Philharmonic Society.

15. Political Affiliations and Activities:

a. List all offices with a political party which you have held or any public office for which you have been a candidate.

None.

b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None.

c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 5 years.

Check-off on income tax return for presidential campaigns.

16. Honors and awards:

"Native Americans and Higher Education," Summer Institute for Native American high school students, The Coca-Cola Foundation, 1994-1997.

"Defining the Cord of Citizenship: Reaching Those Who Teach Teachers," Summer Institute for College Teachers, National Endowment for the Humanities, 1993-94.

"Minority Scholars in History," Grant, Pew Charitable Trusts, 1991-1994.

Fellow, Center for Great Plains Studies, Lincoln, Nebraska.

American Historical Association Nominee, Charles A. Dana Award of the Association of American Colleges for Pioneering Achievements in Higher Education, 1987.

*Comprehensive Bibliography* selected by *Choice* as an Outstanding Academic Book in History for 1985.

*The Oxford Companion to the Supreme Court*, selected by the History Book Club as a Main Selection, 1992; Named "An Outstanding Reference Work for 1992," by the American Library Association, and Certificate of Merit, Gavel Award, American Bar Association, 1993.

Fulbright Short Term Lecturer in American Constitutional and Legal History, Universities of Helsinki and Turku, Finland, February 1987.

Visiting Scholar, American Bar Foundation, Chicago, Illinois, 1986–1987.

Grant, "The South and the American Constitutional Tradition," Florida Endowment for the Humanities, 1986–1987.

Grants from Rockefeller, Hewlett, and Exxon Foundations for the History Teaching Alliance, 1984–1987. (Administered through the American Historical Association.)

Fulbright Lecturer in Law and American Studies, Kobe University, Japan, 1985–1986. (declined)

"Collaboratives on Teaching the History of the American Constitution in Secondary Schools," Grant, William and Flora Hewlett Foundation, 1984–1987.

Grant, "The Popular Election of Judges and Judicial Behavior," National Science Foundation, Law and Social Sciences Division, 1984–1986.

Grant, "The History of Popular Election of Judges," Albert J. Beveridge Fund, American Historical Association, 1984.

Grant, "The Politics of Nineteenth-Century Judicial Elections," American Association for State and Local History, 1983–1984.

Norman Wilensky Teaching Prize, Department of History, University of Florida, 1983.

"The History of the Popular Election of Judges," National Endowment for the Humanities, Summer Stipend, 1982.

"A Bibliography of American Constitutional and Legal History," American Bar Foundation Legal History Grant, 1982.

Legal History Fellow, American Bar Foundation, 1980–1981.

Post-Doctoral Graduate Fellow, Yale Law School, 1979–1980.

Post-Doctoral Fellowship, Earhart Foundation, 1979–1980.

"The Politics of Federal Judicial Selection," Grant-in-Aid, The American Philosophical Society, Summer, 1976.

"The Politics of Federal Judicial Selection," Grant-in-Aid, The American Council of Learned Societies, Summer, 1975.

#### 17. Published Writings:

##### BOOKS:

Kermit L. Hall, *The Magic Mirror: Law in American History* (New York: Oxford University Press, 1989).

Kermit L. Hall and Eric W. Rise, *From Local Courts to National Tribunals: The Federal District Courts of Florida, 1821–1990* (Brooklyn, NY: Carlson Publishing Company, 1991).

Kermit L. Hall, *The Supreme Court and Judicial Review in American History* (Washington, D.C.: American Historical Association, 1985). A volume in the American Historical Association's Bicentennial Essays on the Constitution.

Kermit L. Hall, *The Politics of Justice: Lower Federal Judicial Selection and the Second American Party System, 1829–1861* (Lincoln: The University of Nebraska Press, 1979).

##### EDITED BOOKS:

Kermit L. Hall, editor-in-chief, *The Oxford Companion to the Supreme Court* (New York: Oxford University Press, 1992). (James W. Ely, Jr., Joel Grossman, and William M. Wiecek associate editors).

Kermit L. Hall, William M. Wiecek, and Paul Finkelman, *American Legal History: Cases and the Materials* (New York: Oxford University Press, 1991).

Kermit L. Hall, *Major Problems in American Constitutional History*, 2 vols. (Lexington, MA: D.C. Heath and Company, 1991).

Kermit L. Hall, *'By and For the People': Constitutional Rights in American History* (Arlington Heights, IL: Harlan Davidson, Inc., 1991).

Kermit L. Hall and James W. Ely, Jr., *An Uncertain Tradition: The South and the American Constitutional Tradition* (Athens: University of Georgia Press, 1989).

Kermit L. Hall, *Collected Essays on American Constitutional and Legal History*, 21 vols. (New York: Garland Publishing Company, 1986). (not included)

Kermit L. Hall, *A Comprehensive Bibliography of American Constitutional and Legal History*, 5 vols. (Millwood, NY: Kraus Thomson International, 1985). *Supplement 1980-1987* (Millwood, NY: Kraus Thomson International, 1991). (not included)

Kermit L. Hall, Harold M. Hyman, and Leon V. Sigal, eds., *Constitutional Convention as an Amending Device* (Washington, D.C.: American Historical Association, 1981).

Herbert Weaver and Kermit L. Hall, eds., *The Correspondence of James K. Polk, Volume Four, 1835-1836* (Nashville: Vanderbilt University Press, 1975). (not included)

#### ARTICLES AND CHAPTERS IN BOOKS:

"Of Floors and Ceilings: State Bills of Right and the American Constitutional Tradition," in David J. Bodenhamer and James W. Ely, Jr., eds., *New Perspectives on American Liberty* (Bloomington, IN: Indiana University Press, 1993), pp. 213-240.

"Of Floors and Ceilings: The New Federalism and State Bills of Rights," *Florida Law Review* 44 (September 1992, forthcoming).

"If All the World Were Philadelphia: Allen Steinberg's *The Transformation of Criminal Justice*," *Pennsylvania History* 27 (Summer 1992): 13-21.

"The Irony of the Federal Constitution's Genius: State Constitutional Development," in Peter Nardulli, ed., *The Constitution and American Political Development: An Institutional Perspective* (Urbana: University of Illinois Press, 1992): 235-261.

"The Legal Culture of the Great Plains," *Great Plains Quarterly* 12 (Spring 1992): 86-98.

"The Legacy of Nineteenth-Century State Bills of Rights," *Perspectives on Intergovernmental Relations* 17 (Fall 1991): 15-18.

"'Mostly Anchor and Little Sail': State Constitutions in American History," in *Toward a Usable Past: Liberty Under State Constitutions*, in Paul Finkelman and Steven Gottlieb, eds. (Athens, Ga: University of Georgia Press, 1991), pp. 388-418.

"The Supreme Court, Original Intent, and the Bill of Rights," in Raymond Arsenault, ed., *Crucible of Liberty: The Bill of Rights Across Two Centuries* (New York: The Free Press, 1991), pp. 3-22.

"American Legal History as Science and Applied Politics," *Benchmark: A Quarterly Review of the Constitution and Courts* 4 (Summer 1990): 227-238.

"Justice Brennan and Cultural History: *New York Times v. Sullivan* and Its Times," *California Western Law Review* 27 (1990-1991): 339-359.

"Framing the Bill of Rights," in *'By and For the People': Constitutional Rights in American History*, Kermit L. Hall, ed. (Arlington Heights, IL: Harlan Davidson Publishers, 1991), pp. 14-25.

"The South and the American Constitution," in *An Uncertain Tradition*, Kermit L. Hall and James W. Ely, Jr., eds. (Athens: The University of Georgia Press, 1989), pp. 3-16.

"Law Librarians and the New American Legal History," *Law Library Journal* 81 (Winter 1989): 1-11.

"The American Citizen: The Developing Legal Concept," in *Foundations of American Citizenship: New Directions for Education* (Washington, D.C.: Council of Chief State School Officers, 1988), pp. 41-61.

"Implementing the Constitution as Law: The Origins of Judicial Review," "Implementing the Constitution as Law: The Establishment of Judicial Sovereignty," and "The Amending Process and Constitutional Change," in *The American Constitution*, ed., Herman Belz (Baltimore: The International University Consortium, 1987), pp. 41-61, 62-83, and 400-30. (not included)

"The 'Magic Mirror' and the Promise of Western Legal History at the Bicentennial of the Constitution," *The Western Historical Quarterly*, 18 (October 1987): 429-36.

"The Magic Mirror: American Constitutional and Legal History," *The International Journal of Social Education* 1 (Autumn 1986): 22-48.

"Dissent on the California Supreme Court, 1850-1920," *Social Science History* 10 (Spring 1987): 63-83.

"Why We Don't Elect Federal Judges," *This Constitution* no. 10 (Spring 1986): 20-26.

"Change Within Tradition: Hugh Lennox Bond, the Ku Klux Klan, and Civil Rights," *The Maryland Historian* 10 (Winter 1986): 110-32, with Lou Williams. (not included)

"Political Power and Constitutional Legitimacy: The South Carolina Ku Klux Klan Trials, 1871-72," *Emory Law Journal* 33 (Fall 1984): 921-51.

"Progressive Reform and the Decline of Democratic Accountability: The Popular Election of State Supreme Court Judges, 1850-1920," *American Bar Foundation Research Journal* (Spring 1984): 345-70. Reprinted in Robert F. Williams, *State Constitutional Law: Cases and Materials*, 2nd ed. (Charlottesville, Va.: The Michie Company, 1993).

"From Ballot to Bench: Popular Election and the Southern Appellate Judiciary, 1832-1920," in, *Ambivalent Legacy: Essays on the Legal History of the South*, eds., David J. Bodenhamer and James W. Ely, Jr., (University, Mississippi: University of Mississippi Press, 1984), pp. 229-55. (not included)

"Isam Green Harris: Secessionist Governor of Tennessee," in Buck Yearns, ed., *The Confederate Governors* (Athens: University of Georgia Press, 1985), pp. 185-94.

"Constitutional Machinery and Judicial Professionalism: The Careers of Midwestern State Appellate Court Judges, 1861-1899," in *The New High Priests: The Legal Profession at the End of the Nineteenth Century* ed., Gerard W. Gawalt (Westport, Conn.: Greenwood Press, 1984), pp. 29-49.

"Think Things, Not Words: Judicial Review in United States Constitutional History," *University of Florida Law Review* 135 (1983): 281-95. (not included)

"Sometimes the Otter and Sometimes the Hound: Political Power and Legal Legitimacy in American History, A Review Essay," *American Bar Foundation Research Journal* 2 (Spring 1983): 429-39. (not included)

"The Judiciary on Trial: State Constitutional Reform and the Rise of an Elected Judiciary, 1846-1860," *The Historian* 44 (May 1983): 337-54. Reprinted in *Pittsburgh Federalist Society Newsletter*, June, 1993.

"For Whom the School Bell Tolls: The Substance and Pedagogy of American Legal History," *Northwestern University Law Review* 77 (May 1982): 201-16. (not included)

"Hacks and Derelicts Revisited: The American Territorial Judiciary, 1780-1959," *Western Historical Quarterly* 12 (July 1981): 273-89.

"Mere Party and the Magic Mirror: California's First Lower Federal Judicial Appointments," *The Hastings Law Journal* 32 (March 1981): 819-37. (not included)

"The Children of the Cabins: The Lower Federal Judiciary, Modernization, and the Political Culture, 1789-1899," *Northwestern University Law Review* 75 (October 1980), 432-71.

"The Promises and Perils of Prosopography—Southern Style," *Vanderbilt Law Review* 32 (January 1979): 331-39.

"240 Men: The Antebellum Lower Federal Judiciary, 1829-1861," *Vanderbilt Law Review* 29 (October 1976): 1089-1129. (not included)

"101 Men: The Social Composition and Recruitment of the Antebellum Lower Federal Judiciary, 1829-1861," *Rutgers-Camden Law Journal* 7 (Winter 1976): 199-227. (not included)

"Social Backgrounds and Judicial Recruitment: A Nineteenth-Century Perspective on the Lower Federal Judiciary," *The Western Political Quarterly* 29 (June 1976): 243-57. (not included)

"Andrew Jackson and the Judiciary: The Michigan Territorial Judiciary as a Test Case, 1828-1832," *Michigan History* 59 (Fall 1975): 131-51. (not included)

"The Civil War Era as a Crucible for Nationalizing the Lower Federal Courts," *Prologue: The Journal of the National Archives* 7 (Fall 1975): 177-86. Reprinted in Joel Silbey, ed., *The Congress of the United States 1789-1989*, vol. 1 (Brooklyn, NY: Carlson Publishing Company, 1991), pp. 127-136. (not included)

"West H. Humphreys and the Crisis of the Union," *Tennessee Historical Quarterly* 34 (Spring 1975): 48-69. (not included)

"Federal Judicial Reform and Proslavery Constitutional Theory: A Retrospective on the Butler Bill," *The American Journal of Legal History* 17 (April 1973): 166-84. Reprinted in Joel Silbey, ed., *The Congress of the United States 1789-1989*, vol. 1 (Brooklyn, NY: Carlson Publishing Company, 1991), pp. 137-156.

"New Light on an Old Enigma: Sam Houston and the Grand Saline," *The Chronicles of Oklahoma* 51 (Fall 1973): 335-43. (not included)

#### BIOGRAPHICAL DIRECTORIES:

Contributor to *Biographical Dictionary of U. S. Supreme Court Justices*, Melvin Urofsky, ed. (New York: Garland Publishing Co., forthcoming 1994). Two essays. (not included)

Contributor to *The Oxford Encyclopedia of World Politics* (New York: Oxford University Press, forthcoming 1993). One essay. (not included)

Contributor to *The Encyclopedia of Southern Culture*, ed. by Charles R. Wilson and William Farris (Chapel Hill: University of North Carolina Press, 1989). Four essays. (not included)

Contributor to *The Encyclopedia of the American Constitution*, ed. by Leonard Levy and Kenneth Karst (New York: Macmillan, 1986). Fourteen Essays, from 250-2,225 words in length. (not included)

Contributor to *Judges of the United States*, 2nd ed. (Washington, D.C.: U.S. Government Printing Office, 1984). Over 1,000 biographical entries. (not included)

Contributor to *The Encyclopedia of Southern History*, ed. by David C. Roller and John Twyman (Baton Rouge: Louisiana State University Press, 1979). Two essays. (not included)

#### REVIEWS:

*Journal of American History* (10).

*The Historian* (7).

*The American Journal of Legal History* (5).

*The American Historical Review* (8).

*Journal of the Early Republic* (4).

*Ohio History* (5).

*Detroit College of Law Review* (1).

*Reviews in American History* (3).

*Pennsylvania Magazine of History and Biography* (3) *Judicature* (3).

*Vanderbilt Law Review* (1).

*The Midwest Review* (1).

*The Western Historical Quarterly* (3).

*Florida Historical Quarterly* (5).

*Constitutional Commentary* (2).

*New York History* (1).

*Law and History Review* (1).

*Journal of Southern History* (3).

*Criminal Justice History* (1).

*Documentary Editing* (1).

*Western Legal History* (1).

*The Register of the Kentucky Historical Society* (3).

*Georgia Historical Quarterly* (3).

*The Law and Politics Book Review* (1).

#### 18. Speeches:

"The Changing Supreme Court," Public Lecture, University of Kentucky, Louisville, Kentucky, October 18, 1993.

"Time to Reclaim: The Social History of the Lower Federal Courts," Detroit Historical Society, October 13, 1993.

"Civil Rights and the Press," Public Lecture, The Gilman School, Baltimore, Maryland, March 29, 1993.

"The Power of Comparison in Teaching About Rights," Public Lecture, The Mershon Center, Ohio State University, Columbus, Ohio.

"The Changing Supreme Court," Public Lecture, Smithsonian Institution, Washington, D.C., October 1992.

"Public Libel Law and Modern American Morality," Humanities Lecture Series, Kansas State University, Manhattan, Kansas, September 1992.

"Sober Second Thoughts: Doing the History of the Federal Courts," Eleventh Federal Circuit Historical Society, Hilton Head, South Carolina, May 2, 1992. (included)

"The Bill of Rights and Original Intent," Keynote Address, University Symposium on the Bill of Rights, East Carolina University, Greenville, North Carolina, November 1991.

"What We Know About the Bill of Rights at Two-Hundred Years," Keynote Address, Central Michigan University, November 1991.

"The Problem of Incorporation and the Second Amendment," University of Arizona Law School, Tucson, Arizona, November 1991.

"Is There a Core Body of Knowledge about the Constitution and the Bill of Rights?" Hearing Session Address, The Leon Jaworski Symposium about Teaching the Constitution and the Bill of Rights in the 21st Century, Smithsonian Institution, Washington, D.C., August 1991.

"First Things First: The 'Central Meaning' of the Bill of Rights," Session Keynote Address, Annual Meeting of the Association for Education in Journalism and Mass Communication, Boston, Massachusetts, August 1991.

"The Bill of Rights in Comparative International Perspective," Session Keynote Address, National Conference of State Legislatures Annual Meeting, Orlando, Florida, August 1991.

"The World We Have Lost: The Bill of Rights Today," Keynote Address, Georgia Bicentennial Commission Symposium on the Bill of Rights, Atlanta, Georgia, July 1991.

"Teaching the Constitution and the Bill of Rights: What to Do and What Not to Do," Symposium on Teaching about Law in Community Colleges, Miami-Dade Community College, Miami, Florida, May 1991.

"The Law of Libel and the First Amendment Revisited," Symposium on the Bill of Rights, University of Minnesota Law School, May 1991.

"The Cultural History of the Law of Libel," Department of History and College of Law, University of Illinois, April 1991.

"The Legal Culture of the Great Plains," Keynote Address, Center for Great Plains Studies' Symposium on the Bill of Rights, University of Nebraska, Lincoln, Nebraska, March 1991.

"*New York Times v. Sullivan* and Its Times," Keynote Address, Drake University Law School Symposium on "Values in Conflict: the First Amendment and the Law of Libel," Des Moines, Iowa, March 1990.

"Civil Rights and the Law of Libel, 1950-1964," Syracuse University Law School, October 1989.

"A Little Bad History is Too High A Price for Certainty in the Law," Keynote Address, Symposium on the History of Constitutional Rights, The Ohio State University, Newark, April 1989.

"Heed Their Rising Voices: The Civil Rights Background of *New York Times v. Sullivan*," Boston University Law School, March 1989.

"State Constitutions in the Political Process," Symposium on Constitutionalism and the Political Process, University of Illinois, November 1987.

"The Imperial Judiciary at the Bicentennial of the Constitution," Keynote Address, Symposium on the Bicentennial of the United States Constitution, University of Alabama at Huntsville, March 1987.

"Amending the Constitution," Jefferson Foundation National Meeting, Washington, D.C., June 1987.

"The Law Librarian and the New Legal History," American Association of Law Libraries, Chicago, July 1987.

"Original Intent and the Founding Fathers at the Bicentennial of the Constitution," Symposium on the History of Constitutional Rights, Pennsylvania State University, June 1987.

"The Constitution and the Judicial Power at the Bicentennial," Pensacola Naval Air Station Association Bicentennial Celebration, Pensacola, Florida, September 1987.

"The American Legal Tradition," Dinner Address, Dinner in Honor of the Bicentennial of the U.S. Constitution, United States Embassy, Finland, Helsinki, Finland, February 1987.

"The Imperial Judiciary," Loyola College of Law, Chicago, Illinois, April 1987.

"All Anchor and No Sail: The Historical Development of State Constitutions," Mississippi State Bar Association Symposium on Constitutional Reform, Jackson, Mississippi, May 1986.

"The State of Constitutional and Legal History," Department of History, Indiana University at Indianapolis, March 1986.

"The Monster that Almost Ate Washington: Why We Will Not Have a Second Constitutional Convention," Keynote Address, Utah Endowment for the Humanities Conference on Teaching About the Constitution, Ogden, Utah, March 1985.

"Civil Rights and the Federal Courts During Reconstruction," Eleventh Circuit Historical Society, Atlanta, Georgia, October 1984.

"Dissent on the Texas Supreme Court, 1850-1920," Texas Tech University School of Law, Lubbock, Texas, April 1983.

"The Supreme Court in American History," American Studies Research Institute, University of Krakow, Krakow, Poland, June 1980.

"California's First Federal Judicial Appointments," Historical Society of the Northern District of California, San Francisco, California, April 1980.

## 19. Congressional Testimony:

U.S. House of Representatives, Subcommittee on Census and Population, September 11, 1980, HR 621.9, Bill to Commemorate the Bicentenary Era of the Federal Government.

## 20. Selection:

- a. Do you know why you were chosen for this nomination by the President?

The Organization of American Historians submitted my name to President Bill Clinton and that he wished, on the basis of that recommendation, to appoint persons with appropriate credentials under the statute.

- b. What do you believe in your background or employment experience affirmatively qualifies you for this a particular appointment?

I believe that as a trained historian who has practiced his craft for over 20 years I am well qualified for the position to which I have been nominated. In addition, I have extensive experience working with documents in the National Archives and, generally, dealing with issues related to the accessibility of legal and governmental documents.

## B. FUTURE EMPLOYMENT

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

No, I see no reason to do so. I will continue as Dean of the Henry Kendall College of Arts and Sciences and Professor of History and Law at The University of Tulsa.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.

Yes, in light of 1 above.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

Yes, in light of 1 above.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No, although I respond in light of 1 above.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

## C. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

I will continue to draw my salary as Dean of the Henry Kendall College of Arts and Sciences at The University of Tulsa.

2. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

I know of no investments, obligations, liabilities, or other relationships which would involve a conflict of interest, real or potential.

3. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

I know of no business or other relationships, dealings, or financial transactions occurring in the last 10 years that pose any conflict of interest.

4. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy.

I have not engaged in any activity during the past 10 years that has involved directly or indirectly influencing the passage, defeat or modification of any legislation.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide copies of any trust or other agreements.)

In light of the above, no response is required.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the



Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes, I agree to have written opinions provided by the ethics officer of the appropriate agency and/or by the Office of Government Ethics.

#### D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, please provide details.

No.

3. Have you or any business of which you are or were an officer ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense?

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

#### E. FINANCIAL DATA

(Retained in Committee Files.)

#### Affidavit

Kermit L. Hall, being duly sworn, hereby states that he has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his knowledge, current, accurate, and complete.

K L Hall  
(signed)

Subscribed, and sworn before me this 3<sup>rd</sup> day of November, 1993

Robert D. Day  
(Notary Public)

Exp. Sept 8, 1997.

#### PREHEARING QUESTIONS FROM THE COMMITTEE ON GOVERNMENTAL AFFAIRS TO HENRY F. GRAFF AND THE RESPONSES

##### I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

**Question 1.** Were any conditions, expressed or implied, attached to your nomination to be a member of the Assassination Records Review Board (ARRB)?

**Answer.** No.

**Question 2.** Have you made any commitments with respect to policies or programs affected by your role as a member of the ARRB? If so, what are they?

**Answer.** No.

**Question 3.** Are there any issues involving the ARRB from which you may have to disqualify yourself? If so, please explain.

**Answer.** No.

**Question 4.** Have you been a party to any legal actions or administrative proceedings pertaining to access to, or disclosure of, Federal records on the subject of the assassination of President Kennedy?

**Answer.** No.

## II. ROLE AND RESPONSIBILITIES

**Question 1.** What particular qualifications and experience do you bring to the role of being a member of the ARRB?

**Answer.** First, I have been a professional historian during most of my adult life, specializing in the history of the presidency and the history of United States diplomatic relations, and attaining national standing and recognition. I believe that I have a well-developed sense of historical objectivity.

Second, I served two terms as a member of the National Historical Publications Commission to which I was appointed and then reappointed by President Johnson. A chief function was to arrange for the evaluation and publication of collections of documents with historical significance. I participated fully in the activities of the NHPC and gained indispensable experience in judging documentary work.

Third, as co-author of *The Modern Researcher* (which has been described as the "classic guide to research and writing" and which now is in its Fifth Edition and its thirty-sixth year of publication), I have a keen sense of the methods and needs of researchers.

**Question 2.** What do you consider to be your primary responsibilities and priorities as an ARRB member?

**Answer.** My first responsibility is to help establish the determination of the Board to fulfill the purpose of the legislation creating it.

The second is to help oversee the orderly and complete gathering of the documents from the respective agencies holding them.

The first priority is to help structure the Board so that the work can proceed expeditiously and efficiently.

The second priority is to obtain the services of a knowledgeable and energetic Executive Director as soon as possible.

**Question 3.** How do you envision your relationship and responsibilities—as an ARRB member—to (a) the President, (b) the Congress, and (c) other executive branch agencies?

**Answer.** (a) To the President: I will aim to the best of my ability to meet the high expectations that President Bush enunciated upon signing the Act creating the Board: to help burnish the reputation of the United States Government for trustworthiness. I will be responsive to inquiries and suggestions that may emanate from the White House, while keeping in mind that the Board's own integrity is the highest desideratum.

(b). To the Congress: I will aim to fulfill the purpose of the legislation creating the Board. I will always be acutely aware of the keen interest and concern that the Congress has expressed from the beginning in the assassination itself and in the attendant issues that understanding it has generated both on Capitol Hill and in the country at large. I will be responsive to inquiries and suggestions that may emanate from the Congress, while keeping in mind that the Board's own integrity is the highest desideratum.

(c) To other executive branch agencies: I will be responsive to the special concerns that assembling the pertinent documents may create. Still, I feel obliged to keep firmly in mind that the Board's mission is the highest desideratum.

**Question 4.** How do you view the job of ARRB Executive Director? What role do you anticipate playing in the selection of ARRB Executive Director and staff?

**Answer.** The Executive Director is central to the success of the Board's mission. He or she must be a person of judgment, principle, and energy, experienced in dealing with masses of historical material and capable of comfortably delegating work to subordinates. The person must be history-minded as well as capable of administering justly and effectively an enterprise that will be substantial in size and enduring in its impact on the nation's. The Executive Director must be aware from the outset that he or she will have to be in regular contact with the Board on all vital issues arising out of the work.

I would expect to have a part in interviewing prospective nominees for the post, and then in helping to instruct the person selected as to his or her responsibilities. As to the staff, I assume that the Executive Director will have a comparatively free hand in the selection of subordinates in order to guarantee the ultimate responsibility of the Executive Director for the thoroughness of the undertaking. I would expect to be consulted on nominees for staff positions as significant issues arise.

## III. POLICY ISSUES

*Question 1.* Have you made any public statements—oral or written—regarding the assassination of President Kennedy or the public availability of government records regarding this assassination? Please explain, and provide copies of any relevant material.

*Answer.* I was interviewed by the *Scarsdale Inquirer* in the week after President Clinton announced his intention to nominate me to the ARRB. I offered some innocuous remarks to the reporter, which were not set down with complete accuracy. (I know, for example, and so said, that the Kennedy autopsy material will not be made public. Also, I specifically said that George Stephanopoulos was never a student of mine.)

*Question 2.* Members of the ARRB will be examining security classified records with a view to their declassification and public disclosure, in whole or in part, at some time in the future.

(a) Can you describe what prior experience you have had, if any, with using or examining security classified records of the Federal Government?

*Answer.* During my army service in World War II as an enlisted man and as an officer of the Army Security Agency at Arlington Hall Station in Arlington, Virginia, I was engaged in cryptanalytic and translation work on the most secret Japanese diplomatic codes and ciphers. The resulting documents were classified TOP SECRET ULTRA—the highest classification of that day. I was also privy to the MAGIC SUMMARY, which was issued daily to the White House and to 10 Downing Street by Special Branch in the Pentagon, and was also classified TOP SECRET ULTRA.

*Question 2(b).* What do you think of our current security classification system? For example, would you say it operates well, has integrity, and serves the public interest?

*Answer.* I am not familiar with the intricacies of the classification system at present. I have never requested documents under the Freedom of Information Acts and have no personal experience on which to base an answer to the sub-question.

As a diplomatic historian, I have been concerned that the long time-lag that now obtains in the publication of *The Foreign Relations of the United States* Series could be considerably shortened without damage to the national interest. Still, a lack of sufficient funds may be partly responsible for this situation.

*Question 3.* One of the duties of the ARRB will be to determine what constitutes an "assassination record." What criteria do you think should be used to make this determination?

*Answer.* I believe that an "assassination record" would be any document that directly or indirectly materially bears on the assassination. The Board will have to create criteria for what is meant by "materially." It is my further belief that individual documents and classes of documents will have to be evaluated by the Board on a case-by-case basis.

## IV. RELATIONS WITH CONGRESS

*Question 1.* Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress, if confirmed?

*Answer.* Yes.

*Question 2.* Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress, or its duly authorized agent, if confirmed?

*Answer.* Yes.

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 POSTHEARING QUESTIONS FROM THE COMMITTEE ON GOVERNMENTAL AFFAIRS TO HENRY F. GRAFF

*Question 1.* How important do you feel it is for a Review Board Member to have a working knowledge of the events and characters associated with the assassination?

*Answer.* Such knowledge is indispensable.

*Question 2.* From your personal research and/or knowledge of the facts surrounding the assassination of President Kennedy, do you feel that any of your opinions might prevent you from seeking full disclosure of assassination records in a given area?

*Answer.* No.

**Question 3.** As a Board Member, you have enormous powers and so many important duties to fulfill. Let alone the thousands of pages of materials you may have to personally review—those which have been withheld by the agencies awaiting your determination.

How will you be able to balance your responsibilities as a Board Member with your other full-time demands on your time?

**Answer.** By suspending some of my writing projects and obligations, and by skillfully calendaring some of my other work, I will aim to avoid conflicts in schedule.

**Question 4.** It may take several months before the Board, Executive Director, and staff will be fully operational. Though we will work to extend the life of the Board as originally envisioned, the clock will be moving.

What are the most pressing matters the Board should be addressing during this transitional period?

**Answer.** The Board will have to choose a Chairperson, advertise for and interview candidates for Executive Director, begin to analyze the classes of documents already in hand at the National Archives, arrange for consultation with interested private parties and organizations, and evaluate the responses of the agencies that hold records not yet transferred to the custody of the National Archives.

**Question 5.** What role do you envision will be played by the Executive Director, and what type of person do you see best fit for this important job?

**Answer.** The Executive Director, being a full-time operative, will have a central role. He or she must be a person of experience in the handling of large quantities of documents, of mature judgment, common sense, and probity, and possessed of considerable administrative ability in order to manage comfortably and efficiently the staff that will serve under his or her direction.

**Question 6.** To what extent do you feel it is important to receive and review information from the Assassination research community regarding the possible existence of a potential assassination record? Some have suggested the establishment of an advisory committee to review and review public input. Other say frequent public hearings. What are your thoughts?

**Answer.** We must consult the Assassination research community, for it deserves to be confident of the integrity of our performance. I prefer public hearings to the creation of an advisory committee, but I will want to hear the pros and cons of this issue from my colleagues. It is possible that the Board will decide to have both an advisory committee and public hearings.

**Question 7.** The definition of "assassination records" contained in the Records Review Act establishing this Board was intentionally left very broad. What kinds of criteria and factors will you use in determining whether or not a document or other item will fall within the definition?

**Answer.** Plainly any document that directly or tangentially deals with the Assassination will be subsumed under the head of "assassination record." But I believe that some documents and classes of documents will have to be labeled such on an *ad hoc* basis.

**Question 8.** Many assassination records will likely be in the possession of private citizens, some of whom may be unwilling to permit disclosure. How far should the Board venture to seek out assassination records from these sources?

**Answer.** I believe that the Board must respect the privacy of citizens who choose to maintain it by withholding materials. Still, I hope that we will be able to exercise considerable persuasion on such people, in the interest of history and public service.

**Question 9.** You have significant powers under the Board to reasonably search for assassination records. For example, the Board may administer oaths and subpoena and grant immunity to witnesses.

(a) In order to obtain information that may lead to the disclosure of an assassination record it may be necessary to grant a witness immunity. Are you willing to consider this? Under what circumstances?

**Answer.** *Prima facie*, I answer yes. But I would want to have the guidance of counsel in all cases.

(b) To what extent would you propose compelling disclosure of a record from private and foreign sources?

**Answer.** I would hope to proceed as earnestly as possible within the law and the protection of privacy to compel disclosure.

(c) Would you authorize disclosing materials normally held under seal of court, such as grand jury indictments?

**Answer.** *Prima facie*, I answer yes. But I would want to have the guidance of counsel in all cases.

(d) In the exercise of these options, do you feel it would be inappropriate for questions to be asked of a witness with respect to events or persons associated

with the assassination that may not necessarily lead to the existence and disclosure of records?

*Answer.* No. But the Board would want to be reasonably certain that in fact the questions would indeed lead to the existence and disclosure of records.

*Question 10.* Can you envision any problems that might prevent you from abiding by Congressional intent that records should be granted a presumption of disclosure?

*Answer.* No.

(a) What do you believe to be the public's interest in disclosure of an assassination record as balanced against the exemptions outlined in Section 6 of the Act? (E.g., sources and methods of data collection of various intelligence agencies.)

*Answer.* I will be very attentive to and concerned about the possibility of compromising any intelligence sources that are or may still be of value to the national security of the United States. I would expect that the public would appreciate that concern.

*Question 11.* You have substantial authority to compel and ensure that agencies undertake full and complete searches to identify and review assassination records holdings. That is an important aspect of this Act.

Should any agency be uncooperative with you during this process—searches, identification, classification and whether an item is to be considered as an assassination "record"—this Committee, as your oversight body in the Senate, would be most interested in knowing. Can we count on *each* of you—should this situation ever arise—to affirmatively bring the matter to the Committee's attention?

*Answer.* Yes.

*Question 12.* Have you ever worked for, been recruited by or supplied information to an intelligence agency of the United States or foreign country?

*Answer.* Yes. My military service in World War II was with the Army Security Agency.

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#### ADDITIONAL QUESTIONS FROM THE COMMITTEE TO HENRY F. GRAFF

*Question 1.* A concern has been expressed by a few researchers over your past association with Time/Life, Inc. Their concerns, in brief, appear to be as follows:

Shortly after the JFK assassination, Time/Life purchased the famous Zapruder film (which captured almost the entire sequence of the shooting) from Abraham Zapruder for \$150,000. From then until 1975 access to the film was strictly controlled by Time/Life and not publicly available, with one exception. That being the criminal trial of Clay Shaw in 1969 in which the film was produced under a subpoena. In fact, Time/Life was involved in a major copyright case about control of the film.

As I understand it, concerns of the research community regarding Time/Life include allegations intimating administrative irregularities with respect to the film and publication of highly incriminating evidence against Lee Harvey Oswald prior to the completion of the Warren Commission's investigation.

For the record, to what extent did you participate in any management decisions by Time/Life, Inc., that pertained in any way to the disposition of the Zapruder film or publication of information concerning the assassination?

*Answer.* I did not in any way participate in management decisions by Time/Life, Inc. that pertained to the disposition of the Zapruder film or publication of information concerning the assassination. An independent contractor, I only served as the historical consultant to Life and later on to the Time/Life Book Division as well as to Life.

*Question 2.* You were appointed by President Lyndon B. Johnson to be a Member of the National Historical Publications Commission in 1965, and reappointed in 1968. What was your relationship with President Johnson? Was the subject of President Kennedy's assassination ever discussed?

*Answer.* President Johnson, knowing that I was a specialist at Columbia University in the history of the Presidency and in the history of United States foreign relations, invited me in late Spring, 1965 to have conversations with him and his principal advisers on the subject of the Vietnam War. He was aware that I was going to write on our talks for publication. The New York Times Magazine for July 4th, 1965 contained my extensive article on our first meetings.

Subsequently the President invited me back for further conversations, one series of which were also published in the New York Times Magazine. A full account of my talks with the President and his advisers and the circumstances surrounding them is in my book, "The Tuesday Cabinet: Deliberation and Decision on Peace and

War under Lyndon B. Johnson" (1970), a copy of which I submitted to the Committee.

At no time when I was with President Johnson did he discuss the subject of President Kennedy's assassination.

## PREHEARING QUESTIONS FROM THE COMMITTEE ON GOVERNMENTAL AFFAIRS TO JOHN R. TUNHEIM

### I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

*Question 1.* Were any conditions, expressed or implied, attached to your nomination to be a member of the Assassination Records Review Board (ARRB)?

*Answer.* No.

*Question 2.* Have you made any commitments with respect to policies or programs affected by your role as a member of the ARRB? If so, what are they?

*Answer.* No.

*Question 3.* Are there any issues involving the ARRB from which you may have to disqualify yourself? If so, please explain.

*Answer.* No. I am unaware of any such issue.

*Question 4.* Have you been a party to any legal actions or administrative proceedings pertaining to access to, or disclosure of, federal records on the subject of the assassination of President Kennedy?

*Answer.* No.

### II. ROLE AND RESPONSIBILITIES

*Question 1.* What particular qualifications and experience do you bring to the role of being a member of the ARRB?

*Answer.* Primarily, I bring my background and experience as a lawyer and public official. I have twice been elected a section officer in the American Bar Association and was recommended for this nomination by the President of the American Bar Association. My experience as a lawyer includes three years in private practice and nine years as Solicitor General and Chief Deputy Attorney General in Minnesota. For 7½ years I have been the senior appointed official in the Minnesota Attorney General's Office, responsible for the management and direction of an office of over 200 attorneys. I have handled countless sensitive projects and cases, arguing three cases before the United States Supreme Court and serving as legal counsel to two Minnesota Governors and to the Minnesota Legislature. I have played an active role within the National Association of Attorneys General, twice receiving major national awards from NAAG, twice chairing the Conference of Chief Deputies, and directing many of NAAG's management improvement initiatives. I teach Constitutional Law as an Adjunct Professor at the University of Minnesota Law School.

From my experience as Minnesota Chief Deputy Attorney General, I have considerable experience dealing with the kind of processes envisioned by the Act, including establishing new administrative procedures created by new statutes, working with a wide range of governmental agencies, resolving tough legal issues raised by new laws, applying confidentiality rules, administering open records laws, issuing subpoenas, conducting government public hearings, and making difficult public decisions that significantly impact citizens. I understand the separation of powers issues that could be raised in the context of this Act. Furthermore, I have had no prior involvement in any aspect of the Kennedy assassination or the assassination records. I would bring independent, objective judgment to the position.

I also have a strong interest in historical preservation. My primary undergraduate major was History, an area in which I graduated *summa cum laude* with honors. I authored a 220 page local history and study of immigration. My research included reviewing records at the National Archives. I have also provided legal representation to the Minnesota Historical Society and State Archivist for eight years.

I have worked in the Congress for the United States Senate on Senator Hubert Humphrey's staff and have worked in the federal judiciary as a federal law clerk. I have worked closely with the United States Department of Justice on a wide range of projects and cases.

*Question 2.* What do you consider to be your primary responsibilities and priorities as an ARRB member?

*Answer.* I see our primary responsibilities as:

- (1) Overseeing and directing the prompt collection from government offices of all Kennedy assassination records that have not yet been transmitted to the National Archives, and directing a prompt public disclosure of all appropriate records.

(2) Gathering input and information from the public to ensure that concerns are addressed and that all appropriate records are requested and received.

(3) Applying in a fair manner the standards set forth in the Act regarding postponement of the release of records, keeping in mind the strong Congressional intent expressed in the Act favoring public disclosure.

(4) Assuring the Congress and the American public that information about the Kennedy assassination is not being hidden by any branch or agency of the federal government.

(5) As the lawyer on the panel, I believe that I have additional responsibilities to help ensure that appropriate and fair processes are established to guide the collection and release of records, that legal questions are addressed promptly and thoroughly, and that any necessary investigations are handled properly.

**Question 3.** How do you envision your relationship and responsibilities—as an ARRB member—to (a) the President, (b) the Congress, and (c) other executive branch agencies?

**Answer.** (a) My responsibilities to the President are to provide a regular and detailed accounting of the work of the ARRB, and to provide concise and thorough postponement and release decisions in order to expedite the President's review of ARRB decisions affecting executive branch agencies.

Although ARRB is an independent agency, it is important to have a smooth working relationship with the President in order to ensure that the process established by Congress works well.

(b) My responsibilities to the Congress are to implement the law promptly and in the manner intended by Congress, to provide on a regular basis a detailed accounting of the work of the ARRB, and to respond appropriately to all Congressional inquiries and requests.

(c) My responsibilities toward and relationship with other executive branch agencies are to work cooperatively but firmly in ensuring early transmittal of documents to the National Archives. My responsibility includes working with the agencies to ensure a complete understanding of agencies' responsibilities under the law and fairly and independently reviewing agencies' requests to postpone disclosure of any records.

**Question 4.** How do you view the job of ARRB Executive Director? What role do you anticipate playing in the selection of ARRB Executive Director and staff?

**Answer.** I consider the Executive Director to be the ARRB's chief administrator and coordinator of all functions of the panel. The Executive Director should be the day-to-day administrator of the staff and the administrator of all activities of the ARRB. I envision the Executive Director playing an important coordination role with other federal agencies.

I anticipate playing a role in the selection of the Executive Director. The position is critical to the effectiveness of the ARRB and I would like to use my considerable recruiting and hiring experience to help choose the best available staff.

### III. POLICY ISSUES

**Question 1.** Have you made any public statements—oral or written—regarding the assassination of President Kennedy or the public availability of government records regarding this assassination? Please explain, and provide copies of any relevant material.

**Answer.** I have made no written or oral public statements regarding the Kennedy assassination or the assassination records.

**Question 2.** Members of the ARRB will be examining security classified records with a view to their declassification and public disclosure, in whole or in part, at some time in the future.

(a) Can you describe what prior experience you have had, if any, with using or examining security classified records of the Federal Government?

**Answer.** I have no prior experience with using or examining security classified records of the federal government. I have, however, considerable experience handling documents protected by state confidentiality laws.

(b) What do you think of our current security classification system? For example, would you say it operates well, has integrity, and serves the public interest?

**Answer.** The security classification system has generally well served the public interest throughout the period in which the Cold War placed significant constraints on sharing information. We have entered a new era and my understanding is that a comprehensive review is now underway that will likely result in significant revisions and the development of a less restrictive system of security classification. Such a comprehensive review is a positive development.

*Question 3.* One of the duties of the ARRB will be to determine what constitutes an "assassination record." What criteria do you think should be used to make this determination?

*Answer.* The definition of "assassination records" will be one of the most important and significant decisions of the ARRB. It is important to understand better the universe of potential records before the difficult decision on how to define "assassination records." Preliminarily, and without such an understanding yet, I would favor a broad definition because (1) a broad definition will help assure the American public that all relevant records are being reviewed and disclosed, and (2) I believe that is the intent of Congress as expressed in the Act.

It may well be difficult to define "assassination records" in a manner which will cover all relevant documents, and if so, it may be necessary to establish a mechanism by which a case-by-case determination can be made regarding the linkage between the assassination and a particular document.

#### IV. RELATIONS WITH CONGRESS

*Question 1.* Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress, if confirmed?

*Answer.* Yes.

*Question 2.* Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress, or its duly authorized agent, if confirmed?

*Answer.* Yes.

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#### POSTHEARING QUESTIONS FROM THE COMMITTEE ON GOVERNMENTAL AFFAIRS TO JOHN R. TUNHEIM

*Question 1.* How important do you feel it is for a Review Board Member to have a working knowledge of the events and characters associated with the assassination?

*Answer.* It is important to have a working knowledge of the events and characters associated with the assassination of President Kennedy to the extent necessary to understand the significance of records that may provide information about the assassination and its aftermath. The Board is empowered to define the term "assassination record," and sufficient knowledge about the event will assist Board members in making this important determination. It will be important for the Board to hold public hearings or otherwise to solicit public input regarding the location of records and why such records are related to the assassination. Knowledge of the events and characters will be helpful in reviewing and understanding the public testimony.

*Question 2.* From your personal research and/or knowledge of the facts surrounding the assassination of President Kennedy, do you feel that any of your opinions might prevent you from seeking full disclosure of assassination records in a given area?

*Answer.* No. I pledge to remain independent and objective in enforcing the law and exercising my responsibilities.

*Question 3.* As a Board Member, you have enormous powers and so many important duties to fulfill. Let alone the thousands of pages of materials you may have to personally review—those which have been withheld by the agencies awaiting your determination.

How will you be able to balance your responsibilities as a Board Member with your other full-time demands on your time?

*Answer.* I recognize the potential scope and breadth of the responsibilities expected of a member of the Assassination Records Review Board. In addition, the Board will be expected to do much of the startup work necessary for the creation of a new independent agency. Although all Board members have other demands on their time, I believe that it is important, particularly during the period immediately following confirmation, for the Board to begin its duties as quickly as possible. I will do my best to minimize the time commitments I have to other matters so that I may devote significant time to Board responsibilities. If necessary, I would be prepared to take leave time in order to devote sufficient time to Board work. I am very much aware that we are getting a start that is much later than anticipated by the Congress when it passed S. 3006. We will do whatever possible to make up the time lost.



**Question 4.** It may take several months before the Board, Executive Director, and staff will be fully operational. Though we will work to extend the life of the Board as originally envisioned, the clock will be moving.

What are the most pressing matters the Board should be addressing during this transitional period?

**Answer.** The most pressing issues for the Board to address during the transition will be: (1) establishing criteria, interviewing and hiring the Executive Director and initial staff, (2) beginning the process of communicating with agencies holding records, (3) establishing the necessary support relationships with the Congress, the White House, the Justice Department and the National Archives, (4) reviewing and understanding the records currently in the JFK Assassination Collection at the National Archives, (5) discussing preliminarily how the Board will solicit public input into key decisions such as the definition of "assassination records" and the definition of key words included in the postponement standards, (6) obtaining necessary authorizations for the agency budget, (7) finalizing all necessary security clearances for Board members, (8) reviewing requirements of the Administrative Procedures Act, the Government in the Sunshine Act, and other federal laws that will impact our duties, (9) obtaining office space and other administrative assistance and begin making security arrangements, (10) identifying records that are the subject of FOIA litigation and documents released but in redacted form, (11) discussing Board responsibilities regarding "donated assassination records," records sealed by courts, and the Board's authority to direct production of a "additional information and records" that will assist in accomplishing the law's requirements, (12) begin drafting a schedule for review of all assassination records, and (13) begin reviewing records that have been submitted in redacted form to the National Archives.

**Question 5.** What role do you envision will be played by the Executive Director, and what type of person do you see best fit for this important job?

**Answer.** I envision a role for the Executive Director as the chief administrator for the Board, the staff director and supervisor, and the primary day-to-day contact between the Board and the affected agencies. I would prefer to employ an individual who has a working understanding about records and records retention, who shares the Board's appreciation for the immense historical value of the assassination records, and who possess investigative skills.

**Question 6.** To what extent do you feel it is important to receive and review information from the Assassination research community regarding the possible existence of a potential assassination record? Some have suggested the establishment of an advisory committee to review and review public input. Other say frequent public hearings. What are your thoughts?

**Answer.** It is vitally important to receive and review information from the assassination research community regarding possible assassination records. We need to solicit the assistance of the researchers not only to help us locate relevant records, but also to assist the Board in defining "assassination records." I strongly favor a process of conducting public hearings as a way not only of involving the researchers, but also to draw public attention to the process in the hopes of gathering additional relevant information. I am also in favor of advisory committees, but I am less certain how such committees should be chosen and charged. The subject of advisory committees is one the Board must address as soon as practicable.

**Question 7.** The definition of "assassination records" contained in the Records Review Act establishing this Board was intentionally left very broad. What kinds of criteria and factors will you use in determining whether or not a document or other item will fall within the definition?

**Answer.** It is my view that the Board should more fully understand the scope of the potential records before attempting to define the term. I favor a broad definition in order to fulfill the clear intent of Congress. One important criteria will be the extent to which the record adds to the public understanding of the events and characters involved in the assassination and its aftermath.

**Question 8.** Many assassination records will likely be in the possession of private citizens, some of whom may be unwilling to permit disclosure. How far should the Board venture to seek out assassination records from these sources?

**Answer.** I firmly believe that the Board has an obligation to seek out assassination records from all sources, public and private. The goal of Congress in passing S. 3006 was to ensure broadest possible disclosure of the records relating to the assassination. The fact that a document exists only in private hands should not deter the Board in any way from seeking to compel its transmission to the Nation Archives.

**Question 9.** You have significant powers under the Board to reasonably search for assassination records. For example, the Board may administer oaths and subpoena and grant immunity to witnesses.

(a) In order to obtain information that may lead to the disclosure of an assassination record it may be necessary to grant a witness immunity. Are you willing to consider this? Under what circumstances?

*Answer.* Yes, I am willing to consider granting a witness immunity. It would be important to work closely with the Department of Justice and the Congress in devising appropriate standards for granting immunity. But if an immunity grant were necessary in order to obtain testimony that will lead to discovery of important assassination records, and there were no other ways to compel such testimony, an immunity grant should be considered by the Board.

(b) To what extent would you propose compelling disclosure of a record from private and foreign sources?

*Answer.* Compelling disclosure of a record from a private and foreign sources would depend largely on the importance of the record for fully understanding the assassination and its aftermath. If in the judgment of the Board, the record is significant, and not reviewable in a public agency, the Board should utilize a broad standard for compelling such disclosure.

(c) Would you authorize disclosing materials normally held under seal of court, such as grand jury indictments?

*Answer.* Yes, if the Board obtains the approval of the court which has ordered such records sealed. If such records are relevant, the Board should move the court for immediate release to the Board.

(d) In the exercise of these options, do you feel it would be inappropriate for questions to be asked of a witness with respect to events or persons associated with the assassination that may not necessarily lead to the existence and disclosure of records?

*Answer.* The Board must always keep in mind that its obligation is to ensure the collection of the assassination records in the National Archives for immediate or eventual release to the public. The Board's responsibilities do not include making determinations with respect to the facts of what actually happened. The law contains language which arguably give the Board powers regarding disclosure of additional information and records. The Board must, however, be careful to interpret such language reasonably and with due respect for the law's overriding purpose: public disclosure of the assassination records so that the public may decide for itself what happened.

*Question 10.* Can you envision any problems that might prevent you from abiding by Congressional intent that records should be granted a presumption of disclosure?

*Answer.* I envision no problems that might prevent the Board from applying a broad presumption of disclosure to the records.

(a) What do you believe to be the public's interest in disclosure of an assassination record as balanced against the exemptions outlined in Section 6 of the Act? (E.g., sources and methods of data collection of various intelligence agencies.)

*Answer.* The public's interest in disclosure is extensive as balanced against all of the exemptions outlined in section 6. First, the standard the Board must apply in order to postpone disclosure of a particular record is "clear and convincing evidence" that an exemption applies to such material. This standard is extraordinarily limited, and indicates the strong Congressional presumption in favor of disclosure. Second, many of the records may be thirty years old or more. The interest in postponing disclosure of such records is surely weaker than if the records were made more recently. Each of the exemptions describes situations which, if true, would require postponement of the particular part of the record which falls within the exemption. The Board must be satisfied to a high degree of certainty that the record falls clearly within the particular exemption. In my view, mere arguments that an exemption might apply are insufficient, proof of such exemption must be provided to the Board.

*Question 11.* You have substantial authority to compel and ensure that agencies undertake full and complete searches to identify and review assassination records holdings. That is an important aspect of this Act.

Should any agency be uncooperative with you during this process—searches, identification, classification, and whether an item is to be considered as an assassination "records"—this Committee, as your oversight body in the Senate, would be most interested in knowing. Can we count on each of you—should this situation ever arise—to affirmatively bring the matter to the Committee's attention?

*Answer.* It is of extreme importance to bring to the attention of the Committee on Governmental Affairs any problems the Board might have with an agency that is uncooperative in the process of transmitting assassination records to the National Archives. It is my view that a series of regular meetings with Committee staff and oversight hearings will help ensure that agencies will provide utmost cooperation to

the Board. I have no hesitation whatsoever in affirmatively bringing any such matters to the immediate attention of the Committee.

*Question 12.* Have you ever worked for, been recruited by or supplied information to an intelligence agency of the United States or foreign country?

*Answer.* No.

## PREHEARING QUESTIONS FROM THE COMMITTEE ON GOVERNMENTAL AFFAIRS TO ANNA KASTEN NELSON AND THE RESPONSES

### I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

*Question 1.* Were any conditions, expressed or implied, attached to your nomination to be a member of the Assassination Records Review Board (ARRB)?

*Answer.* No.

*Question 2.* Have you made any commitments with respect to policies or programs affected by your role as a member of the ARRB?

*Answer.* No.

*Question 3.* Are there any issues involving the ARRB from which you may have to disqualify yourself?

*Answer.* No.

*Question 4.* Have you been a party to any legal actions or administrative proceedings pertaining to access to, or disclosure of, Federal records on the subject of the assassination of President Kennedy?

*Answer.* No.

### II. ROLE AND RESPONSIBILITIES

*Question 1.* What particular qualifications and experience do you bring to the role of being a member of the ARRB?

*Answer.* a. Staff member of the Public Documents Commission, created by Congress after the Nixon tape controversy. This Commission held hearings, sponsored studies on public records and wrote a final report. As a staff member, I was introduced to the promises and problems of preserving federal records and providing access to them.

b. Project Director, Committee on Records of Government. This foundation funded project was designed to study the relationship between information management and records management, particularly as it applies to computer generated records. As project director I worked closely with the Chairman of the Committee and its members. I organized hearings, wrote summaries of the hearings to be circulated to the Committee and was responsible for preparation of the final report.

c. As an historian of American Foreign Relations, I have researched documents in the National Archives (including four Presidential Libraries) from the era of the Cold War. I am very familiar with "withdrawal" notices of classified material as well as the kind of material that has been released.

d. I have been elected and/or appointed to several committees sponsored by various historical organizations that have been concerned with the declassification of historically valuable documents. As a result, I am very familiar with FOIA and the Executive Orders that control declassification.

*Question 2.* What do you consider to be your primary responsibilities and priorities as an ARRB member?

*Answer.* The primary responsibility of the ARRB is to ensure the review and facilitate the public disclosure of records relating to the assassination of President Kennedy. It is important to note that it is not the responsibility of the Board or its members to reach any conclusions about the participants or events of the assassination. Instead, the Board must ensure that the agencies comply with the law and either open or present to the Board ALL documents pertaining to the assassination. The obligation of each member is to carefully study the documents that have not yet been disclosed to weigh the need for public disclosure against the protection of national security. A major priority of the Board should be the preservation of its own integrity in order to ensure the restoration of government credibility regarding the assassination.

*Question 3.* How do you envision your relationship and responsibilities—as an ARRB member—to (a) the President, (b) the Congress, and (c) other executive branch agencies?

*Answer a and b.* My responsibility to the President and Congress is to fulfill the trust and perform the tasks mandated by the legislation to the best of my ability. I would be willing to confer with members of the White House staff and the Congress on the progress of the Board if it is necessary to do so to preserve the integrity of the process.

c. The relationship with other executive branch agencies may prove more problematical. To restore public confidence, the Board must be guaranteed complete compliance with the law by all the agencies with assassination related records. I would try to ensure that agencies have indeed searched for all relevant records, and have either provided public access to them or prepared them for action by the Board.

**Question 4.** How do you view the job of ARRB Executive Director? What role do you anticipate playing in the selection of ARRB Executive Director and staff?

**Answer.** As described in the statute, the Executive Director should be responsible for all administrative duties. These will involve serving as a liaison to the agencies, describing the universe of records, organizing hearings (if necessary), etc. The Executive Director will not be responsible for policy and should not be responsible for determining which documents can be opened to the public.

I would anticipate that every Board member would actively seek candidates for the position of Executive Director. However, since five individuals cannot effectively run a Board, the elected Chair of the Board will be the person who will be closely working with the Executive Director. Thus, the Chair should be particularly involved in the selection process.

### III. POLICY ISSUES

**Question 1.** Have you made any public statements—oral or written—regarding the assassination of President Kennedy or the public availability of government records regarding this assassination?

**Answer.** No.

**Question 2(a).** Members of the ARRB will be examining security classified records with a view to their declassification and public disclosure, in whole or in part, at some time in the future.

Can you describe what prior experience you have had, if any, with using or examining security classified records of the Federal Government?

**Answer.** As a member of the State Department Advisory Committee on Historical Documentation I have examined documents that have been deemed security classified (including intelligence documents) and have participated in discussions of disclosure of documents in the *Foreign Relations of the United States* series with desk officers of State who did not wish to see these documents published. I have also participated in meetings with agency personnel whose responsibility included preserving national security related documents.

**Question 2(b).** What do you think of our current security classification system? For example, would you say it operates well, has integrity, and serves the public interests?

**Answer.** The current system is extremely expensive, labor intensive and subjective in its implementation. It has resulted in an enormous backlog of documents over 30 years old and has further eroded public trust and government credibility. The current attempt to rewrite the Executive Order governing the security classification system reflects the awareness of the White House and executive agencies that the current system is no longer viable; it does not operate efficiently, sacrifices the integrity of the record and does not, therefore, serve the public interest.

**Question 3.** One of the duties of the ARRB will be to determine what constitutes an "assassination record." What criteria do you think should be used to make this determination?

**Answer.** This will be one of the most difficult problems facing the Board. First, I think I would seek information from the agencies on what they regarded as an assassination record. Second, since this goes to the heart of public confidence, I think this is a question that probably should be the subject of an open hearing. Currently my sense is that the Board will have to determine parameters for the kinds of records sought, but that these should be as broad as possible.

### IV. RELATIONS WITH CONGRESS

**Question 1.** Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress, if confirmed?

**Answer.** Yes.

**Question 2.** Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress, or its duly authorized agent, if confirmed?

**Answer.** Yes.

# POSTHEARING QUESTIONS FROM THE COMMITTEE ON GOVERNMENTAL AFFAIRS TO ANNA KASTEN NELSON

**Question 1.** How important do you feel it is for a Review Board Member to have a working knowledge of the events and characters associated with the assassination?

**Answer.** The Board members should probably use the transitional period ahead to become familiar with the Warren Report and House Assassination Committee Report, plus enough additional reading to understand the contentious debate of the last thirty years. But when the Board begins to actually make decisions concerning the nature of an assassination record and public disclosure of records, it will have to rely on staff members for briefings. The material is just too extensive for a part-time Board.

**Question 2.** From your personal research and/or knowledge of the facts surrounding the assassination of President Kennedy, do you feel that any of your opinions might prevent you from seeking full disclosure of assassination records in a given area?

**Answer.** I have never formulated an opinion on the assassination that would influence my decisions on disclosure. However, I have always believed that restoration in public confidence requires full disclosure whenever public cynicism is rooted in the suspicions bred by government secrecy or conspiracy.

**Question 3.** As a Board Member, you have enormous powers and so many important duties to fulfill. Let alone the thousands of pages of materials you may have to personally review—those which have been withheld by the agencies awaiting your determination.

How will you be able to balance your responsibilities as a Board Member with your other full-time demands on your time?

**Answer.** This is indeed an issue of concern to all of us. As professionals, however, we often undertake additional responsibilities (serving on professional committees, reading manuscripts, or teach a course as in the case of Dep. Att. Gen. Tunheim). We will have to forego many of those to concentrate on the work of the Board. However, the key to juggling the responsibilities and duties facing us will be the effectiveness of the Executive Director and his/her staff. In addition, the Board will have to work collegially. Assuming mutual trust and respect, it may be that not every member will look at every document, for example.

**Question 4.** It may take several months before the Board, Executive Director, and staff will be fully operational. Though we will work to extend the life of the Board as originally envisioned, the clock will be moving.

What are the most pressing matters the Board should be addressing during this transitional period?

**Answer.** The most pressing matter facing the Board is the choice of an Executive Director. Since he/she will need a security clearance, it is very important that we proceed in our search as quickly as possible. At this point we have no place "to hang our hats." Given the nature of our task, we need someone who will deal with mundane matters such as office space and instituting a proper file system. Substantively, the Board members must meet to discuss methods, procedures, etc., for allowing public participation and for dealing with agencies. Some of us may also use this time to further familiarize ourselves with the issues and documents.

**Question 5.** What role do you envision will be played by the Executive Director, and what type of person do you see best fit for this important job?

**Answer.** Before actively seeking a Director, the Board members will have to reach a consensus on the nature of the position and qualifications of potential applicants. It is especially important for the Executive Director to have a working relationship with the Chair of the Board. Ideally this individual would combine managerial skills and an understanding of the "political" nature of the task with knowledge of public records, agencies, intelligence material, etc. Alternatively, the Board may choose someone with managerial and political skills and either provide for a deputy with additional talents or perhaps seek a combination of attributes to be shared by the Executive Director and the Counsel to the Board. While the Director and his/her staff will unquestionably influence policy, they cannot make policy and must clearly understand this important point.

**Question 6.** To what extent do you feel it is important to receive and review information from the Assassination research community regarding the possible existence of a potential assassination record? Some have suggested the establishment of an advisory committee to review and review public input. Other say frequent public hearings. What are your thoughts?

**Answer.** I think the Board should hold public hearings, although they should be subject oriented, such as defining assassination records, in order to make them use-

ful. Written testimony could also be useful. I have some reservations about advisory committees. Organizing advisory groups can be a very time-consuming activity. It may be more advisable to bring together once or twice a "liaison" group to inform the interested, organized community (and media) of the progress of the Board, and encourage questions and discussions at such a meeting.

**Question 7.** The definition of "assassination records" contained in the Records Review Act establishing this Board was intentionally left very broad. What kinds of criteria and factors will you use in determining whether or not a document or other item will fall within the definition?

**Answer.** My sense at this point is that the Board should encourage this broad definition of records while we establish the parameters of the issue. Defining the records is the perfect topic for public hearings. Most individuals who have extensively studied the available information have opinions on this matter. In addition, the index of names from the House Assassination Committee report, and the subject index in the National Archives will help clarify the issues for us. I'm sure the Board will spend considerable time on this issue because of its importance to the work of the Board.

**Question 8.** Many assassination records will likely be in the possession of private citizens, some of whom may be unwilling to permit disclosure. How far should the Board venture to seek out assassination records from these sources?

**Answer.** The Board has an obligation to examine the records of former public officials who participated in any aspect or phase of investigation concerning the assassination, or of former public officials closely allied with Kennedy, as well prosecutors, etc. The Board should tread carefully when seeking papers from those who were always private citizens. Papers of individuals who were likely to have played a large role and that may be rich in information may be worth pursuing. In other instances, the peripheral nature of the individual may not be worth the legal problems in obtaining them. In general, this will have to be a flexible policy.

**Question 9.** You have significant powers under the Board to reasonably search for assassination records. For example, the Board may administer oaths and subpoena and grant immunity to witnesses.

(a) In order to obtain information that may lead to the disclosure of an assassination record it may be necessary to grant a witness immunity. Are you willing to consider this? Under what circumstances?

(b) To what extent would you propose compelling disclosure of a record from private and foreign sources?

(c) Would you authorize disclosing materials normally held under seal of court, such as grand jury indictments?

(d) In the exercise of these options, do you feel it would be inappropriate for questions to be asked of a witness with respect to events or persons associated with the assassination that may not necessarily lead to the existence and disclosure of records?

**Answer.** As an historian, I have never had the experience of serving on a group that had such powers. Fortunately, the Board has a member from the A.B.A. whose expertise will be essential on these matters. Currently, I think the Board should consider use of all its powers, including offering immunity, compelling disclosure from private and foreign sources and disclosing information under seal of a court. I also think the Board should be very cautious in using these powers. Before resorting to legal confrontation, the Board should make every effort to reach agreement through negotiation. In addition, the Board should weight the value of the information to be gained and exert all its powers when there is some indication that information is vital.

**Question 10.** Can you envision any problems that might prevent you from abiding by Congressional intent that records should be granted a presumption of disclosure?

**Answer.** No.

(a) What do you believe to be the public's interest in disclosure of an assassination record as balanced against the exemptions outlined in Section 6 of the Act?

**Answer.** Documents that contain sources and methods can easily be released with a name of few lines removed. That is the common way that intelligence agencies handle sources and methods. However, when documents are thirty years old, many of the sources are dead and the methods long since superseded. Under those circumstances, the public's right to know must be presumed.

**Question 11.** You have substantial authority to compel and ensure that agencies undertake full and complete searches to identify and review assassination records holdings. That is an important aspect of this Act.

Should any agency be uncooperative with you during this process—searches, identification, classification and whether an item is to be considered as an assassination

"record"—this Committee, as your oversight body in the Senate, would be most interested in knowing. Can we count on *each* of you—should this situation ever arise—to affirmatively bring the matter to the Committee's attention?

*Answer.* Yes. In fact, I would welcome the opportunity to do so.

## PREHEARING QUESTIONS FROM THE COMMITTEE ON GOVERNMENTAL AFFAIRS TO WILLIAM L. JOYCE AND THE RESPONSES

### I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

*Question 1.* Were any conditions, expressed or implied, attached to your nomination to be a member of the Assassination Records Review Board (ARRB)?

*Answer.* There have been no conditions, expressed or implied, attached to my nomination to be a member of the Assassination Records Review Board (ARRB).

*Question 2.* Have you made any commitments with respect to policies or programs affected by your role as a member of the ARRB? If so, what are they?

*Answer.* I have made no commitments with respect to policies or programs affected by my role as a member of the ARRB.

*Question 3.* Are there any issues involving the ARRB from which you may have to disqualify yourself? If so, please explain.

*Answer.* I am not aware of any issues involving the ARRB from which I would have to disqualify myself.

*Question 4.* Have you been a party to any legal actions or administrative proceedings pertaining to access to, or disclosure of, Federal records on the subject of the assassination of President Kennedy?

*Answer.* I have not been a party to any legal actions or administrative proceedings pertaining to access to, or disclosure of, federal records on the subject of the assassination of President Kennedy.

### II. ROLE AND RESPONSIBILITIES

*Question 1.* What particular qualifications and experience do you bring to the role of being a member of the ARRB?

*Answer.* The particular qualifications and experience that I bring to the role of being a member of the ARRB are the training and experience I have acquired as a historian, in addition to my work-related experience as an archivist and research library administrator.

*Question 2.* What do you consider to be your primary responsibilities and priorities as an ARRB member?

*Answer.* My primary responsibilities and priorities as an ARRB member are to establish, in concert with other Board members, clear policies and sound procedures that can guide the work of the staff that the Board is to hire. Once policies and procedures are set and staff is in place, it is the Board's clear responsibility to oversee the training of staff in effective procedures for reviewing classified records, to advise staff in problem areas, and to oversee their work generally.

*Question 3.* How do you envision your relationship and responsibilities—as an ARRB member—to (a) the President, (b) the Congress, and (c) other executive branch agencies?

*Answer.* As an ARRB member, I envision my relationship and responsibilities to:

(a) the President to be one of faithfully executing to the best of my ability the provisions contained in the President John F. Kennedy Assassination Records Collection Act of 1992;

(b) the Congress to be one of fulfilling the purposes of the same legislation to the best of my ability, and to responding fully to requests for information from appropriate oversight groups concerning our progress;

(c) other executive branch agencies to be one of cooperating to the utmost of my ability to facilitate the review of any of their assassination records and to provide them with full information concerning our activities.

*Question 4.* How do you view the job of ARRB Executive Director? What role do you anticipate playing in the selection of ARRB Executive Director and staff?

*Answer.* I view the job of ARRB Executive Director to be one of organizing staff for the most efficient and effective implementation of the policies and procedures adopted by the Board. Apart from setting policies and procedures, there is no more important task for the Board than hiring the best-qualified Executive Director and overseeing the Executive Director's hiring of staff.

### III. POLICY ISSUES

*Question 1.* Have you made any public statements—oral or written—regarding the assassination of President Kennedy or the public availability of government records

regarding this assassination? Please explain, and provide copies of any relevant material.

*Answer.* I have not made any public statements—oral or written—regarding the assassination of President Kennedy or the public availability of government records regarding this assassination.

*Question 2(a).* Members of the ARRB will be examining security classified records with a view to their declassification and public disclosure, in whole or in part, at some time in the future.

Can you describe what prior experience you have had, if any, with using or examining security classified records of the Federal Government?

*Answer.* As an ARRB member, I will be examining security classified records with a view to at least partial public disclosure.

I have had prior experience with security classified records first in working with the Papers of Senator Arthur Vandenberg at the William L. Clements Library at The University of Michigan, where we had to initiate a declassification review of parts of those papers, and, second, in my current duties at Princeton University where we have had to initiate contact with the State Department concerning the declassification review of hundreds of reels of microfilm of the most important state documents as selected by John Foster Dulles himself.

*Question 2(b).* What do you think of our current security classification system? For example, would you say it operates well, has integrity, and serves the public interest?

*Answer.* The current security classification system certainly has integrity. I would hope that, in the interest of a fully informed citizenry and accountable public officials, that somewhat more emphasis might be given to disclosure of records after the passage of a specified period of time, allowing for agency initiative to classify records beyond that time when they fall into specific categories that, in order to protect the national interest or privacy interests, must continue to be restricted.

*Question 3.* One of the duties of the ARRB will be to determine what constitutes an "assassination record." What criteria do you think should be used to make this decision?

*Answer.* The criteria to be used to determine what constitutes an assassination record will likely consist of several elements: the *proximity* of the record either to the time of the assassination or to the related activity of an assassination principal, and/or the *content* of the record manifestly relating it to the assassination, or an *association* of the record to the related activity of someone known to have been involved in events plausibly connected to the assassination.

#### IV. RELATIONS WITH CONGRESS

*Question 1.* Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress, if confirmed?

*Answer.* If confirmed, I agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress.

*Question 2.* Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress, or its duly authorized agent, if confirmed?

*Answer.* If confirmed, I agree without reservation to reply to any reasonable request for information from any duly constituted committee of Congress, or its duly authorized agent.

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#### POSTHEARING QUESTIONS FROM THE COMMITTEE ON GOVERNMENTAL AFFAIRS TO WILLIAM L. JOYCE

*Question 1.* How important do you feel it is for a Review Board Member to have a working knowledge of the events and characters associated with the assassination?

*Answer.* I feel that it is important for an Assassination Records Review Board (hereafter ARRB) Member to have a working knowledge of the events and characters associated with the assassination because the documents will have to be reviewed with a knowledge of the context of their creation so that their contents and significance may be properly evaluated.

*Question 2.* From your personal research and/or knowledge of the facts surrounding the assassination of President Kennedy, do you feel that any of your opinions might prevent you from seeking full disclosure of assassination records in a given area?



*Answer.* I do not feel that I hold any opinions about the assassination of President Kennedy that would prevent me from seeking full disclosure of assassination records in any given area.

*Question 3.* As a Board Member, you have enormous powers and so many important duties to fulfill. Let alone the thousands of pages of materials you may have to personally review—those which have been withheld by the agencies awaiting your determination.

How will you be able to balance your responsibilities as a Board Member with your other full-time demands on your time?

*Answer.* It is difficult to assess how I might balance my responsibilities as a Member of the Assassination Records Review Board (hereafter ARRB) with other full-time demands on my time until I have experienced first-hand the work of the Board. As I have become aware of the daunting responsibility of membership on the ARRB, I have discussed with the Librarian of Princeton University the likelihood that this assignment on the ARRB will be time-consuming and that I may need to adjust my work schedule accordingly; we have agreed to monitor the situation and discuss it as circumstances warrant. I have every intention of fulfilling all responsibilities outlined for the ARRB in its enabling legislation.

*Question 4.* It may take several months before the Board, Executive Director, and staff will be fully operational. Though we will work to extend the life of the Board as originally envisioned, the clock will be moving.

What are the most pressing matters the Board should be addressing during this transitional period?

*Answer.* The most pressing matters of the ARRB in its transitional period to full operation will be to: (a) elect a Chairman, (b) select an Executive Director and decide the structure and organization of the ARRB staff, and (c) develop policies and procedures that will enable the ARRB to identify assassination records, evaluate them for possible declassification, and establish a review process by which the ARRB can be satisfied that its staff is fulfilling optimally the policy of the ARRB and the purposes of its enabling legislation in encouraging full disclosure of records concerning the assassination of President Kennedy.

*Question 5.* What role do you envision will be played by the Executive Director, and what type of person do you see best fit for this important job?

*Answer.* In addition to being the chief executive of the ARRB and supervising its staff, I envision that the Executive Director will be the chief liaison on a daily basis with government agencies, deal with the media, and implement generally the policies, procedures, and directives of the ARRB.

*Question 6.* To what extent do you feel it is important to receive and review information from the Assassination research community regarding the possible existence of a potential assassination record? Some have suggested the establishment of an advisory committee to review and review public input. Other say frequent public hearings. What are your thoughts?

*Answer.* In my opinion, I think that the ARRB should receive and review public information, through the mechanism of public hearings and other avenues of communication, about the possible existence of potential assassination records. It is unclear to me that an advisory committee is necessary or desirable, though changing circumstances and other considerations could lead me to revise my view of this.

*Question 7.* The definition of "assassination records" contained in the Records Review Act establishing this Board was intentionally left very broad. What kinds of criteria and factors will you use in determining whether or not a document or other item will fall within the definition?

*Answer.* The definition of "assassination records" will be a major challenge for the ARRB to resolve in a workable manner. In my view, the ARRB will need to establish criteria addressing:

- (a) the temporal proximity of the record in relation to the assassination,
- (b) the content of the record relative to the assassination, and
- (c) the relation of the record to important factors and issues perceived to be related to the assassination.

*Question 8.* Many assassination records will likely be in the possession of private citizens, some of whom may be unwilling to permit disclosure. How far should the Board venture to seek out assassination records from these sources?

*Answer.* Through fair and impartial application of the criteria developed by the ARRB and keeping in mind always the express purposes of the enabling legislation, I believe that the ARRB should be as aggressive as it needs to be to achieve disclosure of relevant records. That also applies to records held by private citizens, if such records are within the purview of the legislation.

**Question 9.** You have significant powers under the Board to reasonably search for assassination records. For example, the Board may administer oaths and subpoena and grant immunity to witnesses.

(a) In order to obtain information that may lead to the disclosure of an assassination record it may be necessary to grant a witness immunity. Are you willing to consider this? Under what circumstances?

(b) To what extent would you propose compelling disclosure of a record from private and foreign sources?

(c) Would you authorize disclosing materials normally held under seal of court, such as grand jury indictments?

(d) In the exercise of these options, do you feel it would be inappropriate for questions to be asked of a witness with respect to events or persons associated with the assassination that may not necessarily lead to the existence and disclosure of records?

**Answer.** In light of the broad powers of the ARRB to search reasonably for assassination records, I believe:

(a) the Board might use its power to grant immunity to witnesses when such grant seems likely to lead to the disclosure of relevant assassination records, the importance of which is proportionate to the extraordinary step of granting immunity;

(b) the Board might propose disclosure of a record by private and foreign sources, though I would seek legal guidance as to what steps would be necessary (much less desirable!) to compel such disclosure;

(c) the Board should be careful to assure all citizens that their rights will be protected, and I would therefore be cautious about disclosing materials, such as grand jury indictments, normally held under seal of court;

(d) the Board should be careful to exercise only those responsibilities enumerated in its enabling legislation, which would make me most reluctant to undertake any activity that may not necessarily lead to the existence and disclosure of assassination records.

**Question 10.** Can you envision any problems that might prevent you from abiding by Congressional intent that records should be granted a presumption of disclosure?

(a) What do you believe to be the public's interest in disclosure of an assassination record as balanced against the exemptions outlined in Section 6 of the Act?

**Answer.** Except for the exceptions enumerated in the legislation, I can not now envision any problems that would prevent me from abiding by the Congressional intent that assassination records be granted the presumption of disclosure:

(a) the public's interest in disclosure of an assassination record is nothing less than the empowerment that flows from an informed citizenry and requires in my mind a serious countervailing consideration (such as the exceptions enumerated in the legislation) before the presumption of disclosure of an assassination record is lost.

**Question 11.** You have substantial authority to compel and ensure that agencies undertake full and complete searches to identify and review assassination records holdings. That is an important aspect of this Act.

Should any agency be uncooperative with you during this process—searches, identification, classification and whether an item is to be considered as an assassination “record”—this Committee, as your oversight body in the Senate, would be most interested in knowing. Can we count on *each* of you—should this situation ever arise—to affirmatively bring the matter to the Committee's attention?

**Answer.** The Senate Governmental Affairs Committee can be assured that I will bring to the Committee's attention any instance of a lack of cooperation by an government agency concerning any searches, identification, classification, and definition of an assassination record.

**Question 12.** Have you ever worked for, been recruited by or supplied information to an intelligence agency of the United States or foreign country?

**Answer.** I have never worked for, been recruited by, or supplied information to an intelligence agency of the United States or foreign country.

## PREHEARING QUESTIONS FROM THE COMMITTEE ON GOVERNMENTAL AFFAIRS TO KERMIT L. HALL AND THE RESPONSES

### I. NOMINATION PROCESS AND POTENTIAL CONFLICTS

**Question 1.** Were any conditions, expressed or implied, attached to your nomination to be a member of the Assassination Records Review Board (ARRB)?

**Answer.** No.

*Question 2.* Have you made any commitments with respect to policies or programs affected by your role as a member of the ARRB? If so, what are they?

*Answer.* No.

*Question 3.* Are there any issues involving the ARRB from which you may have to disqualify yourself? If so, please explain.

*Answer.* No.

*Question 4.* Have you been a party to any legal actions or administrative proceedings pertaining to access to, or disclosure of, federal records on the subject of the assassination of President Kennedy?

*Answer.* No.

## II. ROLE AND RESPONSIBILITIES

*Question 1.* What particular qualifications and experiences do you bring to the role of being a member of the ARRB?

*Answer.* I am a practicing historian of 21 years experience with a thorough knowledge of American history and of archival and recording management techniques. I have previously served on committees and task forces charged with improving the retention of both electronic and paper records. My service as a scholar demonstrates, I believe, an even-handed approach to major issues, a willingness to weight evidence impartially and fairly, and to pursue truth with fidelity to the evidence. Moreover, I have successfully brought to press books and articles that have withstood the scrutiny of my peers. I have worked extensively in archival, manuscript, and other governmental materials, both of the nineteenth and the twentieth centuries. These qualities of professionalism, character, energy, and experience are essential to the effective fulfillment of the duties of a member of the ARRB as required under the statute.

*Question 2.* What do you consider to be your primary responsibilities and priorities as an ARRB member?

*Answer.* As a member of the Board, I will be asked to consider whether a record constitutes an assassination record and whether an assassination record or particular information in a record qualifies for postponement or disclosure under the statute. In fulfilling these responsibilities I will be required to adhere faithfully to the letter and spirit of the enabling legislation, which carries a presumption of the immediate disclosure of all records relating to the assassination of President John F. Kennedy. My responsibility is to serve the public interest in meeting this presumption with the understanding that some materials may pose important issues of national security, identify a living person who provided confidential information and would pose a risk of harm to that person, invade privacy to a degree that outweighs the public interest, and/or compromise a security or protective procedure currently employed. In these cases a decision to postpone the release of a document may be warranted. The burden in these instances is clearly on the agency or other entity holding the record to demonstrate that the presumption of release should be set aside. In every instance the question must be answered whether the release of a document would be so harmful as to outweigh the public interest in releasing it under the terms of the statute.

*Question 3.* How do you envision your relationship and responsibilities—as an ARRB member—to (a) the President, (b) the Congress, and (c) other executive branch agencies?

*Answer.* As a member of the ARRB, I recognize that my official conduct falls under the oversight of the Committee on Governmental Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate. Board members have a duty to cooperate with the exercise of such oversight jurisdiction. At the same time, the ARRB has authority to direct Government offices to provide documents and related finding aids for assassination records and, if necessary, to investigate the facts surrounding additional information, records, or testimony from individuals which may reasonably be required for me to perform my duties under the statute. The statute creating the ARRB provides that after it has made a finding with regard to documents obtained or developed solely within the executive branch, the President has the sole and nondelegable authority to require the disclosure or postponement of such record or information under the appropriate provisions of the statute. Throughout, the statute clearly provides that the ARRB engaged in a mutually constructive dialogue with the executive branch and the Congress about the character and disclosure of documents.

*Question 4.* How do you view the job of ARRB Executive Director? What role do you anticipate playing in the selection of ARRB Executive Director and staff?

*Answer.* Members of the ARRB are charged with appointing an Executive Director, whose responsibilities include serving as a principal liaison to Government offices; administering and coordinating the Board's review of records; and administer-

ing the official activities of the Board. The Executive Director will have no authority to decide or determine whether any record should be disclosed to the public or postponed for disclosure. That duty resides with the Board alone. The selection of staff members will be done in keeping with the statutory requirements. Staff members will have no authority to determine whether a record should be disclosed or postponed.

### III. POLICY ISSUES

*Question 1.* Have you made any public statements—oral or written—regarding the assassination of President Kennedy or the public availability of government records regarding this assassination? Please explain, and provide copies of any relevant material.

*Answer.* I have made no public statements.

*Question 2(a).* Can you describe what prior experience you have had, if any, with using or examining security classified records of the Federal Government?

*Answer.* From 1968 to 1969 I served as an officer in the United States Army, a position that required me to handle many classified documents and other materials. These documents ranged from war plans, to encrypted messages, to memoranda and working papers on various intelligence matters.

*Question 2(b).* What do you think of our current security classification system? For example, would you say it operates well, has integrity, and serves the public interest?

*Answer.* Although I have not worked with classified documents for some time, my general sense is that the present system probably leans too heavily toward classification and over-classification of materials that really do not deserve protection. My own experience in years past suggests a tendency to make secret that which is confidential and confidential that which is really not sensitive. Such a practice is perhaps understandable, given the vicissitudes of national security, but openness and the general availability of information about the conduct of government is to be cherished in a democracy.

*Question 3.* One of the duties of the ARRB will be to determine what constitutes an "assassination record." What criteria do you think should be used to make this decision?

*Answer.* The statute creating the ARRB defines an assassination record as a record that is related to the assassination of President John F. Kennedy, that was created or made available for use by, obtained by, or otherwise came into the possession of the Warren Commission, the Rockefeller Commission, the Church Commission, the Pike Commission, the House Assassination Committee, the Library of Congress, the National Archives, Presidential libraries, any Executive agency, any independent agency, any other office of the Federal Government, and any State or local law enforcement office that provided support or assistance or performed work in connection with a Federal inquiry into the assassination of President John F. Kennedy. I understand that autopsy records donated by the Kennedy family to the National Archives pursuant to a deed of gift regulating access to those records, or copies and reproductions made from such records, are not included.

### IV. RELATIONS WITH CONGRESS

*Question 1.* Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress, if confirmed?

*Answer.* Yes.

*Question 2.* Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress, or its duly authorized agent, if confirmed?

*Answer.* Yes.

### POSTHEARING QUESTIONS FROM THE COMMITTEE ON GOVERNMENTAL AFFAIRS TO KERMIT L. HALL

*Question 1.* How important do you feel it is for a Review Board member to have a working knowledge of the events and characters associated with the assassination?

*Answer.* Review Board members should be expected to know the general history of the assassination, the main figures and events, and the central issues raised. I do not, however, think, given the task before the board, that its members should be experts in the assassination. Knowledge of events and characters are important to the extent that such knowledge can help the Board to understand what con-

stitutes an assassination record and where the Board might appropriately inquire as to the existence of such records.

**Question 2.** From your personal research and/or knowledge of the facts surrounding the assassination of President Kennedy, do you feel that any of your opinions might prevent you from seeking full disclosure of assassination records in a given area?

**Answer.** No.

**Question 3.** As a Board Member, you have enormous powers and so many important duties to fulfill. Let alone the thousands of pages of materials you may have to personally review—those which have been withheld by the agencies awaiting your determination.

How will you be able to balance your responsibilities as a Board Member with your other full-time demands on your time?

**Answer.** This assignment is of great importance to the United States, to the historical record, and to faith in our system of government. I recognize that in fulfilling my duties that I will have to curtail many extra-professional activities in order to be an effective member of the Board and to continue my responsibilities as Dean of the College of Arts and Sciences at the University of Tulsa. I am fully prepared to make this commitment.

**Question 4.** It may take several months before the Board, Executive Director, and staff will be fully operational. Though we will work to extend the life of the Board as originally envisioned, the clock will be moving.

What are the most pressing matters the Board should be addressing during this transitional period?

**Answer.** To begin, I think it important to remember that the Board is not investigating the Kennedy assassination. It is attempting to provide for the fullest possible disclosure of documents relating to that event. There will be, I suspect, tremendous efforts to pull us in the other direction, using the argument that the turning up of records is an ideal way to probe what happened. The Board should resist doing so at every turn. Even with a full term, the Board will have its work cut out just getting to the records, especially those that will require considerable deliberation with regard to postponement.

Having said that, my priorities are roughly these. First, we need to select a chairperson.

Second, the Board needs to get a full briefing from the staff at the Archives on the present status of assassination records collection and review. As part of this briefing we need to have a good idea of what materials are known to exist but have not been disclosed. We should also be given some idea of how the disclosure process has worked until now and what, in general, lessons have been learned. The board needs to begin early to get a sense of where the really difficult documents are located and the kinds of issue that they present.

Third, the Board also needs to be briefed by representatives from the major agencies (CIA, FBI, etc.) about the status of their activities. (I hasten to add that it would be helpful for the Board to visit with all of the persons in these agencies involved with the supervision of the disclosure process. Doing so would be an ideal way to begin to build some ties of mutual interest and respect between the Board and the agencies.) That is, what kind of time schedule do they have for release and what problem issues they see that will require the board's special attention.

Fourth, the Board needs to move promptly to hold public hearings, a task that can be accomplished, I believe, while an executive director is being selected. Such hearings, which could be staffed by the Archives, should address the particularly critical question of what constitutes an assassination record, a question that will lead to a host of other issues that are likely to be raised by those interested in the assassination as an historical matter. Such hearings should also give the Board a sense of the landscape of interest in the assassination.

Fifth, the Board needs to take its own counsel after having heard these views. That is, it needs to have a good working idea of what it means by an assassination record and, given the statutory requirements, it needs to make that clear, as required by the statute, to the agencies and others that have or may be thought to have records relating to the event. The statute is quite clear in this regard, and if the Board is to live up to its responsibilities then it must be prepared to operate within the statutory time frames. Doing so, of course, is essential in giving the agencies and others the notice necessary to comply with the letter and spirit of the statute.

Sixth, the Board needs to come together as a group, to develop an internal sense of purpose and to deal with some of the important philosophical issues raised by our task. I think talking through these issues is of particular importance, and in

that respect the transition time can be of real value in setting the stage for the Board's full operation.

*Question 5.* What role do you envision will be played by the Executive Director, and what type of person do you see best fit for this important job?

*Answer.* First and foremost the Executive Director must be able to administer a staff, respond ably to the needs of the Board, and have a sound working knowledge of records, the records review process, and the role of security classification in conduct of government. Second, the person should have knowledge of and experience with agencies and other entities in the government. Third, the Executive Director must understand that he or she is charged with aiding the Board to make the best possible decisions about postponement of records but that responsibility resides strictly with the Board. As such, the person must possess great character and integrity and an absolute sense of discretion in dealing with highly sensitive materials. Fourth, tact and diplomacy in dealing with the agencies and their officials will be absolutely essential. We want someone who can work quietly but forcefully to achieve the ends of the Board. Fifth, and finally, the Executive Director must not bring any predetermined views about the assassination to the task. Like the members of the Board, the Executive Director's job is to help in the process of disclosing the documents and to allow others to make judgments based on those documents. Hence, I would think a person that had a substantial record of publicly stated views on the assassination would be not be an appropriate Executive Director.

*Question 6.* To what extent do you feel it is important to receive and review information from the assassination research community regarding the possible existence of a potential assassination record? Some have suggested the establishment of an advisory committee to receive and review public input. Others say frequent public hearings. What are your thoughts?

*Answer.* I believe that frequent public hearings are, on balance, the best way to proceed. My experience with advisory boards is that they can slow down the process, push in directions not legitimately related to the task of the substantive body, and that they can never fully know the complexity of issues involved in decisions since they are, as their title suggests, advisory. In some instances, such boards work very well. In this case, I think the Board needs to enjoy the benefits of as wide a discussion as possible with as wide a community of interest as possible. Frequent public hearings would seem to be the best way to achieve this goal.

*Question 7.* The definition of "assassination records" contained in the Records Review Act establishing this Board was intentionally left very broad. What kinds of criteria and factors will you use in determining whether or not a document or other item will fall within the definition?

*Answer.* The statute creating the ARRB defines an assassination record as a record that is related to the assassination of President John F. Kennedy, that was created or made available for use by, obtained by, or otherwise came into the possession of the Warren Commission, the Rockefeller Commission, the Church Commission, the Pike Commission, the House Assassination Committee, the Library of Congress, the National Archives, Presidential libraries, any Executive agency, any independent agency, any other office of the Federal Government, and any State or local law enforcement office that provided support or assistance or performed work in connection with a Federal inquiry into the assassination of President John F. Kennedy. These materials are certainly, therefore, the core of what constitutes the "assassination records" that the Board is duty bound to treat. Any of these materials that are held in private hands are also covered by the statute and are subject to its provisions. In general, I think the Board should take a broad view of what constitutes an assassination record within the terms of statute.

*Question 8.* Many assassination records will likely be in the possession of private citizens, some of whom may be unwilling to permit disclosure. How far should the Board venture to seek out assassination records from these sources?

*Answer.* Personal materials kept by private individuals of events surrounding the assassination pose difficult issues. There is, for example, the question of whether such materials have been "taken" as private property under the statute. Moreover, a diary maintained by a private individual living, let us say, in Nome, Alaska, that recounted his or her reaction to the assassination is surely not covered by the statute. If, however, a private individual has any of the kinds of materials cited in the statute, then these materials do fall under the Board's purview and are subject to disclosure. Private individuals should not be in the position of holding public records that bear on the assassination. Public officials that maintained private records relating to the assassination, to the extent that those records fall within the bounds of the statute, might also be susceptible to disclosure.

**Question 9.** You have significant powers under the Board to reasonably search for assassination records. For example, the Board may administer oaths, and subpoena and grant immunity to witnesses.

(a) In order to obtain information that may lead to the disclosure of an assassination record it may be necessary to grant a witness immunity. Are you willing to consider this? Under what circumstances?

**Answer.** Yes, if all other means fail. If other means fail and the Board believes that the disclosure of materials will be central to its statutory obligations, then it should use its power to grant immunity.

(b) To what extent would you propose compelling disclosure of a record from private and foreign sources?

**Answer.** If the material fell under the statutory provision for an assassination record, then the Board should compel its disclosure, or at least consider whether it should be postponed for disclosure.

(c) Would you authorize disclosing materials normally held under seal of court, such as grand jury indictments?

**Answer.** Yes, if the materials fitted the statutory definition of what constituted an assassination record. Such materials, of course, could be postponed for disclosure, although the Board would be in no position to make that judgment until it had reviewed them.

(d) In this exercise of these options, do you feel it would be inappropriate for questions to be asked of a witness with respect to events or persons associated with the assassination that may not necessarily lead to the existence and disclosure of records?

**Answer.** The obligation of the Board is to provide for the disclosure of materials as required by the statute. In order to get at the existence of documents and/or disclose them the course of questioning might be such as to raise questions that would lead to understanding whether a document exists or might be disclosed. I reiterate, however, that the Board's obligation is not to investigate the Kennedy assassination; it is, instead, to provide for the fullest disclosure of materials within the authority of the statute.

**Question 10.** Can you envision any problems that might prevent you from abiding by Congressional intent that records should be granted a presumption of disclosure?

**Answer.** No.

(a) What do you believe to be the public's interest in disclosure of an assassination record as balanced against the exemptions outlined in Section 6 of the Act? (E.g., sources and methods of data collection of various intelligence agencies.)

**Answer.** Openness and the general availability of information about the conduct of government is to be cherished in a democracy. The intent of the statute is to make available a broad array of materials previously classified, the disclosure of which will aid in the general public understanding of the assassination and add credibility and legitimacy to the operation of government. At the same time, the public does have an interest in the preservation of valuable sources and methods of intelligence and safeguarding present and future public officials, including the President. The presumption of the statute is in favor of disclosure; postponement of the release of a record will have to be based, as a result, on a case in which the preponderance of the argument suggests that disclosure would materially harm the interests of the United States.

**Question 11.** You have substantial authority to compel and ensure that agencies undertake full and complete searches to identify and review assassination records holdings. That is an important aspect of this Act.

Should any agency be uncooperative with you during this process—searches, identification, classification, and whether an item is to be considered as an assassination "record"—this Committee, as your oversight body in the Senate, would be most interested in knowing. Can we count on *each* of you—should this situation ever arise—to affirmatively bring the matter to the Committee's attention?

**Answer.** Yes.

**Question 12.** Have you ever worked for, been recruited by or supplied information to an intelligence agency of the United State or foreign country?

**Answer.** I served for two years as a military officer in the Army Security Agency. I have never worked for the intelligence agency of a foreign country.

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